



**NEW MEXICO OFFICE OF
SUPERINTENDENT OF INSURANCE**

**FINANCIAL STATEMENTS AND
SUPPLEMENTARY INFORMATION**

JUNE 30, 2018

INTRODUCTORY SECTION

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OFFICE OF SUPERINTENDENT OF INSURANCE
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**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
OFFICIAL ROSTER
JUNE 30, 2018**

Administrative Officials

| | |
|------------------------|------------------------------------|
| John G. Franchini | Superintendent of Insurance |
| Robert Doucette | Deputy Superintendent of Insurance |
| Vicente Vargas | General Counsel |
| Margaret Caffey-Moquin | Chief Staff Counsel |
| Andy Romero | Director, Compliance Division |
| Bersabe Rodriguez | Chief Financial Officer |
| Jolene Gonzales | Chief Administrative Officer |

FINANCIAL SECTION



INDEPENDENT AUDITOR'S REPORT

Mr. John G. Franchini, Superintendent of Insurance
Office of Superintendent of Insurance
Santa Fe, New Mexico and
Mr. Wayne Johnson
New Mexico State Auditor
Santa Fe, New Mexico

Report on Financial Statements

We have audited the accompanying financial statements of the governmental activities, each major fund, the aggregate remaining fund information, and the budgetary comparisons for the general fund and major special revenue funds of the Office of Superintendent of Insurance (OSI) as of and for the year ended June 30, 2018, and the related notes to the financial statements, which collectively comprise the OSI's basic financial statements as listed in the Table of Contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we

Mr. John G. Franchini, Superintendent of Insurance
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New Mexico State Auditor

express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe the audit evidence we have obtained is sufficient and appropriate to provide a basis for our unmodified and qualified audit opinions. Our audit opinions over the governmental activities and major special revenue funds are unmodified. Our audit opinion over the aggregate remaining fund information is qualified as more fully described in the following paragraph.

Basis for Qualified Opinion on Aggregate Remaining Fund Information

In the Patient’s Compensation Fund (a private purpose trust fund which is a fiduciary fund component of the aggregate remaining fund information), management recognizes plan participant surcharges on the cash basis of accounting. Accounting principles generally accepted in the United States of America require that revenue in private purpose trust funds be recorded under the accrual method of accounting, which would increase assets (receivable) and plan participate surcharges or increase liabilities (unearned revenue) and decrease plan participate surcharges, with offsetting amounts that would increase or decrease net position held in trust for claims. The amount by which this departure would affect assets, liabilities, revenues, or net position held in trust for claims of the Patient’s Compensation Fund has not been determined.

Qualified Opinion

In our opinion, except for the effects of the matter described in the “Basis for Qualified Opinion on Aggregate Remaining Fund Information” paragraph, the financial statements referred to above present fairly, in all material respects, the financial position of the aggregate remaining fund information of the Office of Superintendent of Insurance, as of June 30, 2018, and the changes in financial position for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Unmodified Opinions

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, and each major fund of the Office of Superintendent of Insurance as of June 30, 2018, and the respective changes in financial position for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Emphasis of Matters

As discussed in Note 2, the financial statements of OSI are intended to present the financial position, and the changes in financial position of only that portion of the governmental activities, each major fund, and the aggregate remaining fund information of the State of New Mexico that is attributable to the transactions of OSI.

Mr. John G. Franchini, Superintendent of Insurance
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New Mexico State Auditor

They do not purport to, and do not, present fairly the financial position of the entire State of New Mexico as of June 30, 2018, and the respective changes in its financial position, for the year then ended in conformity with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

As discussed in Note 20, the net position of the Policy Holders and Creditors Fund (a private purpose trust fund) was restated as of June 30, 2017. Our opinion is not modified with respect to this matter.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the Management's Discussion and Analysis on pages 5-16 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Information

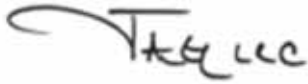
Our audit was conducted for the purpose of forming opinions on OSI's financial statements that collectively comprise the OSI's basic financial statements. The combining and individual non-major fund financial statements listed as other supplementary information are presented for purposes of additional analysis and are not a required part of the basic financial statements. The Schedule of Expenditures of Federal Awards is presented for purposes of additional analysis as required by *Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, and is also not a required part of the basic financial statements.

The Schedule of Expenditures of Federal Awards and additional schedules listed as "other supplementary information" are the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the combining and individual non-major fund financial statements and the Schedule of Expenditures of Federal Awards are fairly stated in all material respects in relation to the basic financial statements as a whole.

Mr. John G. Franchini, Superintendent of Insurance
Office of Superintendent of Insurance and
Mr. Wayne Johnson
New Mexico State Auditor

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated October 31, 2018 on our consideration of the OSI's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering OSI's internal control over financial reporting and compliance.

A handwritten signature in black ink, appearing to read "JAG LLC". The signature is stylized and cursive.

Jaramillo Accounting Group LLC (JAG)
Albuquerque, New Mexico
October 31, 2018

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED)
JUNE 30, 2018**

The Office of Superintendent of Insurance (OSI, the Department) discussion and analysis is to assist the reader in focusing on significant financial issues, provide an overview of the Department's financial activity, identify changes in the Department's financial position (ability to address future year challenges), identify any material deviations from the financial plan, and identify any fund issues of concern.

The Management's Discussion and Analysis (MD&A) is designed to focus on the current year's activities, resulting changes and currently known facts; please read it in conjunction with the Department's financial statements and notes which follow this section.

FINANCIAL HIGHLIGHTS

The assets of the New Mexico, Office of Superintendent of Insurance exceeded its deferred inflow of resources and liabilities at the close of the most recent fiscal year by \$2,378,664 (net assets).

The governmental net assets increased by \$303,024.

The total cost of all Department programs was \$9,767,457.

Mission

The mission of OSI is to provide consumers with convenient access to reliable insurance products which are underwritten by dependable and financially sound companies.

The agency strives to ensure that these companies have a proven history of fair and reasonable rates, are represented by trustworthy and qualified agents, and treat consumers fairly and honestly.

OSI is committed to insurance consumer protection, fraud prosecution, and education, striving to become one of the nation's leading regulatory agencies.

Administration

The Administration Unit includes the Superintendent of Insurance, the Deputy Superintendent of Insurance, General Counsel, Office of Superintendent of Insurance legal staff, the Chief Administrative Officer, the Chief Financial Officer, Budget and Finance units, Human Resources unit, Public Information, Information Technology, and Records, all of which provide administrative support to OSI.

PROGRAM HIGHLIGHTS

Information Technology. OSI has progressed on its conversion to a paperless, web-based environment allowing the agency to migrate its legacy insurance IDEAL system into a new State-Based System (SBS). This new system will provide tools and products that are promulgated by the National Association of Insurance Commissioners (NAIC) and used by more than thirty-two other states to process insurance transactions. This project has resulted in data migration and highlighted areas for further enhancement, and the transition to SBS is complete as of June 30, 2017, with a public go-live date of July 1, 2017. The implementation of the SBS programs will continue to require monitoring and maintenance through 2018.

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OSI's Actuarial Unit. The purpose of the Actuarial Unit is to review and approve rate filings, to monitor rate trends and practices, as well as the competitiveness of insurance markets in New Mexico, and to perform additional tasks as determined by the Superintendent of Insurance.

The Chief Actuary also serves as OSI's primary administrator of the Patient's Compensation Fund.

Company Licensing Bureau. The Company Licensing Bureau licenses insurance companies and other risk-bearing insurance-related entities such as businesses in the area of Property, Casualty, Life, Health, Title, Surety, Marine, and Transportation. Under this, the Company Licensing Bureau receives, reviews, processes, and renders determinations on applications from insurance entities that want to enter the New Mexico insurance market. The Company Licensing Bureau oversees almost \$560 million in insurance company deposits held for the protection of New Mexico policy holders and creditors. The bureau also reviews and processes documentation submitted by insurance companies for acquisitions, re-domestications, mergers and name changes. Additionally, the Company Licensing Bureau is responsible for the collection of premium taxes and policy filings from surplus lines brokers.

Consumer Assistance Bureau. The Consumer Assistance Bureau, receives, processes, and resolves complaints and inquiries from consumers about insurance rates and claim-handling for all insurance products other than those involving managed health care.

The Consumer Assistance Bureau alerts the Investigations Bureau of situations where a complaint reveals a potential violation of insurance statutes and regulations by an insurance company or another insurance licensee.

Examinations Bureau. The Examinations Bureau reviews insurance company financial statements filed with the Office of Superintendent of Insurance. The Bureau conducts periodic financial examinations, as well as ad hoc specialized market conduct and target financial examinations of insurance companies and agents. The Chief Examiner coordinates an internal solvency review team, consisting of financial analysts and actuaries, to plan examination activity, and review annual and quarterly financial statements filed by insurance companies domiciled in New Mexico and elsewhere.

In FY17, 75% of domestic company examination reports were adopted within eighteen months of the examination period. In FY18, 100% of domestic company examination reports were adopted within eighteen months of the examination period.

Financial Audit Bureau. The Financial Audit Bureau Section is responsible for collecting, processing, and auditing premium tax filings for approximately 2000 insurance companies that write policies in New Mexico. All insurers authorized to transact business in New Mexico and all property bondsmen, self-insurers, title companies and risk retention groups are subject to pay premium tax on a quarterly basis. The Financial Audit Bureau is also responsible for the collection of fees and assessments.

Health Policy & Consumer Education Bureau. OSI has received grants from the Department of Health and Human Service under the Affordable Care Act (ACA) to assist OSI in enhancing its health insurance rate review processes and assist consumers with understanding their health insurance options. These grants have allowed

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MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED)
JUNE 30, 2018

the Health Policy & Consumer Education Bureau (HPCEB) to hire health policy, economic and outreach-specialized staff, and to develop online tools for consumer education, transparency, and support. Some of these online tools include: www.nmhealthratereview.com, a website that provides consumers with information and feedback opportunities on health insurance rate filings, www.PD.OSI.state.nm.us, a website that provides an all-carrier provider directory, and working towards developing a health plan comparison tool wherein consumers will be able to view a side-by-side comparison of health insurance plan options available through the beWellnm or Healthcare.gov marketplace.

Additionally, OSI has entered into a Memorandum of Understanding (MOU) with the New Mexico Health Insurance Exchange (NMHIX), known as beWellnm, to implement New Mexico law requiring OSI to provide needed regulations and guidance on plan management and health insurance access issues. In carrying out these duties, the HPCEB works closely with OSI leadership and all other bureaus involved in health insurance providing evidence-based health policy recommendations and decisions, legal opinion, research, consumer education, and legislative outreach. The Health Policy & Consumer Education Bureau is tasked with also developing numerous new initiatives within OSI related to health insurance reform and response to ongoing, ever-changing federal proposed or implemented changes.

The outreach, including the annual Health Insurance Road Show which partners with beWellnm and insurance carriers, research, regulatory review and action, education, and outreach that continues to be at the forefront of this bureau's duties will continue to increase as health insurance becomes more complex and as new federal changes are implemented. Protecting New Mexicans and addressing consumer issues including access to care, continuing to convene stakeholder committees for an inclusive approach to health policy regulation will continue to be vital to researching and supporting market stability and solvency in the future.

Insurance Fraud and Auto Theft Program (IFATP). The Criminal Division ("Division") of the Office of the Superintendent of Insurance takes a multi-dimensional approach to combat insurance and auto-theft-related crimes. The Division oversees, the Auto Theft Prevention Authority ("Authority"). The Authority is part of the prosecutorial division of the Insurance Fraud Bureau and the Criminal Investigations section. Pursuant to §§59A-16C-1 and -2 NMSA 1978, the Division's statutory obligations are vast and plentiful. It is the statutory duty and obligation of this Division to initiate inquiries and conduct investigations when the Superintendent has reason to believe that insurance fraud may have been or is being committed. In addition to its regular duties, the Authority now carries new, more broadly outlined statutory authority and responsibilities. The Division will not only continue to pursue prosecutions, but will now have responsibility for soliciting, reviewing, and approving anti-auto-theft law enforcement plans, and handling both the solicitation and distribution of grant monies for the implementation of those plans.

Through §59A-16C-14 NMSA 1978, the Legislature created a statutorily separate Insurance Fraud Fund intended to fund the Criminal Division, independently funded and separate from the general fund and is non-reverting. The Fraud Fund receives its funding from an assessment on written premiums by insurance companies. Under the new legislation included in §59A-16C-1(E) NMSA 1978, the Authority will now also be responsible for soliciting, reviewing and approving applications for grants to improve and support automobile theft prevention programs throughout the state. The statutory language obligates the Authority to report to the Legislative Finance Committee on the finances of the Authority on or before November 1st of every year. The Authority will also seek additional funding via grants from federal, state, local governments or private philanthropic organizations, to defray the costs of planning, coordinating, and operating statewide automobile theft

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED)
JUNE 30, 2018

prevention law enforcement programs. Under the new legislation, the Authority would be obligated to administer not only its budget but to track and be accountable for these additional expenses. The Division plans to begin applying for applicable grants in the fall of 2018.

The mission of the Division is to protect the consumers of the State of New Mexico through conducting fair and impartial criminal investigations, and other related activities aimed at deterring insurance fraud. The Division remains committed to confronting the problem of insurance fraud in New Mexico by prevention, investigation, and prosecution of fraudulent insurance acts to reduce the amount of premium dollars used to pay fraudulent claims. Enforcement actions under the Insurance Code additionally include issuing recommendations for final adjudication by the Superintendent of Insurance. Currently, the Division manages and oversees daily operations of an accredited law enforcement section including five sworn law enforcement personnel, two prosecutors, two paralegals and a crime management analyst. Day to day actions include the management of investigations, surveillance, equipment, undercover operations, other related special operations and interviews of witnesses. The Division currently administers a multi-jurisdictional auto theft task force with participants from county, state, and federal partner agencies. Through this group, the Division collaborates with its partners to reduce statewide auto theft and manages a prosecutorial auto theft caseload, enabling the Division to oversee statewide joint-operation plans and support the Agency mission.

As part of its day-to-day activities, the Division reviews, develops, implements standard operating procedures, and ensures department compliance with state and federal regulatory laws. The Division also oversees the collection of evidence, maintains a secure evidence room, and is responsible for other related record retention functions pursuant to state law and regulations. The Division also conducts outreach and educational classes through community events, community presentations, and law enforcement training statewide.

The Division's prosecution team has assisted with screening cases for possible criminal charges, conducted grand juries and preliminary hearings across the State of New Mexico. They have resolved numerous criminal cases by trial, plea or other disposition including pre-trial prosecution programs. They have assisted in the review and approval of warrants for legal sufficiency on behalf of law enforcement agencies statewide. In their prosecutions, they have sought restitution of fraudulently obtained benefits. They also respond to and manage legal motions for the Division and appear on behalf of the Division in all administrative, court, or federal court hearings. They assist in the enforcement of the Insurance Code by issuing recommendations for final adjudication by the Superintendent of Insurance. Helping to ensure a continuous flow of information between Superintendent, legislature, and other relevant stakeholders, the prosecutors also play a key role in the promulgation and implementation of rules in accordance with the Insurance Fraud Act. The team provides anti-fraud training to the insurance industry, law enforcement agencies, and civic organizations and supervises and participates in the development and implementation of existing and future criminal or anti-fraud programs.

Life and Health Product Filing Bureau. The Life & Health Product Filing Bureau reviews and renders determinations on the rates and coverage provisions filed by insurance entities for products pertaining to health, life, annuities, long-term care, Medicare supplement, credit life and disability filings, and miscellaneous correlated products.

The bureau disposes of such filings where required, based on their compliance with the New Mexico Insurance Code, Insurance bulletins, Federal Regulations, and NAIC (National Association of Insurance Commissioners) guidelines. As a member of the Interstate Insurance Compact, New Mexico also participates in multi-state

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reviews of additional life and annuity product filings. In FY17, the Life and Health Product Filing Bureau processed 97.03% of form and rate filings within 90 days. In FY18, the Life and Health Product Filing Bureau processed 99.18% of form and rate filings within 90 days.

Managed Health Care Bureau. The Managed Health Care Bureau administers and enforces New Mexico's Patient Protection Act and related health care regulations. The Managed Health Care Bureau handles complaints and inquiries from managed health care consumers and conducts outreach presentations throughout the state to inform consumers and health care providers of their rights and responsibilities under the ACA. The bureau reviews external grievance appeals, proposes rule amendments, and also takes appropriate enforcement actions where merited.

Patient's Compensation Fund. While its primary function is the regulation of insurance, OSI also administers the Patient's Compensation Fund (PCF). The Patient's Compensation Fund is a medical malpractice insurance risk-assuming function mandated by the Medical Malpractice Act.

In FY18, the Patient's Compensation Fund has continued to grow with additional hospitals entering the fund. Over the last two years, as 24 hospitals and 52 outpatient facilities have joined the PCF, the fund revenue has increased by 84% and 78% for FY17 and FY18, respectively.

To further protect the solvency of the Patient's Compensation Fund, the OSI has obtained reinsurance coverage for the Fund effective September 1, 2017 against claims resulting from the same provider/procedure.

In FY19, OSI is looking forward to hiring a full-time PCF Director who would be able to dedicate full attention to overseeing the functions of the PCF. In addition, the OSI has started the process of designing a brand-new PCF website that will serve as a comprehensive portal for all stakeholders of the Fund. The new system will help consolidate the various sources of data related to the PCF, greatly improve the data management process and allow the flexibility to generate reports from the complete database. Accurate and accessible data will in turn improve the accuracy of surcharges for the Fund participants.

With the recent increase in PCF participation, and the associated increase in revenues, the OSI is optimistic about the potential solvency improvements.

Producer Licensing Bureau. The Producer Licensing Bureau licenses approximately 146,000 insurance professionals, as well as, non-risk-bearing insurance entities. This includes insurance agents, agencies, brokers, adjusters, third party administrators, consultants, bail bondsmen, solicitors and motor clubs, as well as limited license insurance vendors such as cell phone sales agents and travel agents. To protect consumers, the Bureau determines the qualifications and eligibility of applicants; approves pre-licensing and continuing education courses; tracks continuing education credits; and processes license applications, renewals and the appointment of agents by insurance companies. Additionally, the bureau certifies New Mexico Health Insurance Exchange enrollment counselors, receiving verification of background checks and required training.

Property and Casualty Product Filing Bureau. The Property and Casualty Product Filing Bureau reviews and renders determinations on the rates and coverage provisions filed by insurance companies for products pertaining to automobile, homeowners, workers' compensation, medical malpractice and other assorted products. The bureau approves or disapproves such filings where required, based on their compliance with

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insurance statutes, regulations, and bulletins and with OSI policies and procedures. In FY17, 99.56% of form and rate filings were processed within 90 days. In FY18, 99.65% of form and rate filings were processed within 90 days.

Workers' Compensation Unit. The Workers' Compensation Unit, a division of the Property and Casualty Product Filing Bureau, monitors the New Mexico Workers' Compensation Assigned Risk Pool, handles complaints by employers regarding their workers' compensation class code assignment and premiums, oversees the Safety Bonus Program and represents the OSI in other matters relating to Workers' Compensation.

Title Insurance Bureau. The Title Insurance Bureau regulates the title insurance industry through rate-making and rule-making hearings held every odd-numbered year. The bureau collects and analyzes annual title agent and underwriter statistical reports, as well as agent audit procedures. The bureau annually assesses the insurers based on annual budget and maintenance needs. Periodically the bureau performs on-site title plant inspections, affiliations, appointments, bank reconciliations, no-pay no-service documentation, and premium calculations.

The bureau performs the investigation of marketing compliance within title insurance regulations. The bureau regulates more than 70 licensed title insurance agents and underwriters in New Mexico and investigates complaints, allegations of defalcations, marketing non-compliance, and other infractions by title agents and insurers. The bureau coordinates with the Investigation and Fraud Bureaus for appropriate enforcement actions. In FY17, the Title Insurance Bureau reported \$524,700 in assessments and penalties and \$699,400 in FY18.

Using This Annual Report. The focus of this report is on both the Department (government-wide) and the major individual funds. Both perspectives (government-wide and major funds) allow the user to address relevant questions, broaden a basis for comparison and enhance accountability. Although the Department is one of several agencies within the State of New Mexico Government, the primary Government focus in this financial report is the Department and not the State of New Mexico as a whole.

Management's Discussion and Analysis. MD&A should provide an objective and easily readable analysis of the Department's financial activities based on currently known facts, decisions or conditions. It should provide an analysis of the Department's overall financial position and results of operations to assist users in assessing whether the financial position has improved as a result of the year's activities. Additionally, it should provide an analysis of significant changes that occur in funds and significant budget variances.

OVERVIEW OF THE FINANCIAL STATEMENTS

This discussion and analysis is intended to serve as an introduction to the Department's basic financial statements. The Department's basic financial statements comprise four components: 1) government-wide financial statements, 2) fund financial statements, 3) budgetary comparisons, and 4) notes to the financial statements. This report also contains other supplementary information, including the Schedule of Expenditures of Federal Awards, in addition to the basic financial statements themselves.

STATE OF NEW MEXICO
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MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED)
JUNE 30, 2018

Government-wide Financial Statements

The government-wide financial statements consist of a Statement of Net Position and a Statement of Activities. These statements should report all of the assets, liabilities, revenues, expenses, and gains and losses of the government.

Fiduciary activities whose resources are not available to finance the government's programs are excluded from the government-wide statements.

Most of the Department's basic services are included in the governmental activities. State appropriations and federal grants finance most of these activities. The funds included in Governmental Activities for the Department are the General Operating Fund, Special Revenue Funds, Debt Service Fund and Capital Project Funds.

Fund Financial Statements

Fund financial statements consist of a series of statements that focus on information about the major governmental and enterprise funds. Governmental fund financial statements also report information about a government's fiduciary funds. Governmental fund financial statements are prepared using the current financial resources measurement focus and the modified accrual basis of accounting. Fiduciary fund financial statements are prepared using the economic resources measurement focus and the accrual basis of accounting. The fund financial statements are similar to the financial statements presented in the previous accounting model. The Department has two types of funds: governmental and fiduciary funds.

Governmental Funds. Most of the Department's services are included in governmental funds (General Fund and Special Revenue Funds), which focus on: (1) how cash and other financial assets that can be readily converted to cash flow in and out, and (2) the balances left at year-end that are available for spending. The governmental fund statements provide a detailed short-term view and help the user determine whether there are more or fewer financial resources that can be spent in the near future to finance the Department's programs. Since this information does not include the additional long-term focus of the government-wide statements, reconciliation between the government-wide statements and the fund financial statements is provided for governmental-type activities.

Fiduciary Funds. Fiduciary funds are used to report assets held in trustee or agency capacity for others and therefore are not available to support OSI programs. The reporting focus is upon net position and changes in net position and employs accounting principles similar to proprietary funds.

Budgetary Comparisons. In addition to the MD&A, GASB #34 requires budgetary comparison schedules for the general fund and for each major special revenue fund that has a legally adopted annual budget to be presented as Required Supplementary Information (RSI).

The budgetary comparison schedules should present both the original and the final appropriated budgets for the reporting period, as well as the actual inflows, outflow and balances, stated on the government's budgetary basis. As required by the Office of the State Auditor in 2 NMAC 2.2, the Statements of Revenues and Expenditures – Budget and Actual are also presented. This information is provided at the approved budget level to demonstrate compliance with legal requirements.

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The budget to actual statement reflected a significant difference between budgeted federal revenues and actual revenues, as well as budgeted expenditures and actual expenditures. The primary cause for both of these differences is related to multi-year federal grants and the related contractual obligations against these grants. The budgeted federal revenues and expenditures (both in the Contractual and Other Costs categories) are higher based on encumbering the entire amount of these multi-year federal contracts. Because the full amounts of these multi-year contracts are encumbered, there is a related increase in the budgeted revenues and budgeted expenditures. The actual federal revenues and expenditures only include expended funds for this fiscal year and are therefore significantly lower than budgeted amounts. This difference does not indicate a significant shortfall in budgeted revenues or expenditures, but is instead related to the process of fully encumbering multi-year federal grant commitments.

Notes to the Financial Statements. The notes to the financial statements consist of notes that provide information that is essential to a user's understanding of the basic financial statements.

THE DEPARTMENT AS A WHOLE

Net Position. Table A-1 summarizes the Department's net position for the fiscal year ended June 30, 2018. Total Department net position for FY18 was \$2,378,664.

Unrestricted net position in Governmental Activities was \$450,947 at the end of the fiscal year. Restricted net position was \$1,927,717.

**Table A-1
The Department's Net Position**

| | <u>June 30, 2018</u> | <u>June 30, 2017</u> | <u>Amount Change</u> | <u>Total % Change</u> |
|------------------------------------------------------------------|----------------------|----------------------|--------------------------|---------------------------|
| ASSETS | | | | |
| Current and other assets | \$ 62,939,322 | \$ 84,209,769 | \$ (21,270,447) | -25% |
| Capital and non-current assets | <u>450,947</u> | <u>287,664</u> | <u>163,283</u> | -57% |
| Total assets | <u>63,390,269</u> | <u>84,497,433</u> | <u>(21,107,164)</u> | -25% |
| LIABILITIES | | | | |
| Current liabilities | <u>60,279,005</u> | 82,421,793 | (22,142,788) | 27% |
| Long-term liabilities | - | - | - | 0% |
| Total liabilities | <u>60,279,005</u> | <u>82,421,793</u> | <u>(22,142,788)</u> | 27% |
| DEFERRED INFLOWS OF RESOURCES | <u>732,600</u> | - | <u>732,600</u> | 100% |
| NET POSITION | | | | |
| Net investment in capital assets | <u>450,947</u> | 287,664 | 163,283 | 57% |
| Restricted | <u>1,927,717</u> | <u>1,787,976</u> | <u>139,741</u> | 8% |
| Total net position | <u>2,378,664</u> | <u>2,075,640</u> | <u>303,024</u> | 15% |
| Total liabilities, deferred inflows, and net position | <u>\$ 63,390,269</u> | <u>\$ 84,497,433</u> | <u>\$ (21,107,164)</u> | -25% |

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED)
JUNE 30, 2018

The Department's net position increased \$303,024 over the course of this fiscal year's operations. The following financial information is a comparison of net position for 2018 and 2017.

The total assets consist of cash and cash equivalents, investment in the State Treasurer's General Fund Investment Pool, receivables from the federal government for grants, receivables from other entities, other receivables and capital assets (net of accumulated depreciation). Total assets decreased by \$21,107,164 in 2018. This decrease was a result of a change in accounting for year-end revenue in FY18. In previous years, all revenue received after 60 days after June 30 was accrued. In FY18, only premium tax revenue was recorded as an accounts receivable and OSI estimated credit and overpayments which also reduced the year-end receivable. Total liabilities consist of amounts due to other state agencies, accounts payable, unearned revenues amounts due to fiduciary funds, accrued salaries and employee benefits payable, amounts due to the state's general fund and the current amount of other obligations and compensated absences payable. Net position is comprised of investment in capital assets and restricted amounts.

The variances consist of:

Total assets. The variance of current and other assets is due to the fact that other receivables decreased by \$24,399,034 as outlined above, and there is an allowance for uncollectible receivables of \$1,027,919 from a company protesting premium taxes assessed during a premium tax audit.

Total liabilities. In current liabilities, a major factor contributing to the variance was a decrease in the amount Due to State General Fund, which decreased by \$24,191,040. This decrease occurred because of the accounting change made in recording year-end receivables.

Total net position. The net position for the Department increased from 2017 by \$303,024. The Department's total revenue increased by approximately 27%, from \$15,635,687 to \$19,813,946. The Department's total expenses increased by approximately 4%, from \$9,392,482 to \$9,767,457.

Change in Net Position

The Department's change in net position for FY18 was an increase of \$303,024 (see Table A-2). A significant portion, eighty-three percent (83%), of the Department's revenue comes from Charges for Services. Seven percent (7%) comes from federal grant funds, and eight percent (8%) comes from fraud assessments.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED)
JUNE 30, 2018**

**Table A-2
Changes in the Department's Net Position**

| | <u>June 30, 2018</u> | <u>June 30, 2017</u> | <u>Amount Change</u> | <u>Total % Change</u> |
|----------------------------------------------------------------|----------------------|----------------------|--------------------------|---------------------------|
| REVENUES | | | | |
| Program revenues | | | | |
| Charges for services | \$ 15,950,508 | \$ 12,092,646 | \$ 3,857,862 | 32% |
| Operating grants and contributions | <u>1,355,688</u> | <u>1,324,183</u> | <u>31,505</u> | 2% |
| Total program revenues | <u>17,306,196</u> | <u>13,416,829</u> | <u>3,889,367</u> | 29% |
| General revenues | | | | |
| Reversions to State General Fund | (9,743,465) | (9,595,707) | 147,758 | 2% |
| Fraud fund assessments | 1,592,507 | 1,444,666 | (147,841) | 10% |
| Continuing education fees | 250,143 | 93,955 | (156,188) | 166% |
| Other revenue, net amount | <u>-</u> | <u>25,137</u> | <u>25,137</u> | -100% |
| Total general revenues | <u>(7,900,815)</u> | <u>(8,031,949)</u> | <u>(131,134)</u> | -2% |
| Special Item - Transfers | | | | |
| Transfers from fiduciary | 665,100 | 665,100 | - | 0% |
| Transfer other financing | <u>-</u> | <u>(2,650,500)</u> | <u>(2,650,500)</u> | -100% |
| Total special item - transfers | <u>665,100</u> | <u>(1,985,400)</u> | <u>(2,650,500)</u> | -133% |
| Total general revenues and special item - transfers | <u>(7,235,715)</u> | <u>(10,017,349)</u> | <u>2,781,634</u> | 28% |
| EXPENSES | | | | |
| Insurance regulation | <u>9,767,457</u> | <u>9,392,482</u> | <u>374,975</u> | 4% |
| Change in net position | 303,024 | (5,993,002) | (5,689,978) | 95% |
| Net position - beginning of year | <u>2,075,640</u> | <u>8,068,642</u> | <u>(5,993,002)</u> | 74% |
| Net position - end of year | <u>\$ 2,378,664</u> | <u>\$ 2,075,640</u> | <u>\$ 303,024</u> | 15% |

Total Revenues. Revenue received is comprised mostly of charges for services which totals \$15,950,508, but also includes federal grant funds, and fraud fund assessments.

Total Expenses. The expenses consist of Personal Services and Benefits. Another area of expenditures within the Department is the category of Contractual Services, which includes costs associated with the transition of IT activities. In addition, this category is used to flow federal grant funds. Significant expenditures within the Department were in the category of Other Costs. This category pays for operational expenses of the Department including utilities, postage and rent of equipment.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED)
JUNE 30, 2018**

Fund Balance

As the Department completed the year, its governmental funds reported a combined fund balance of \$2,378,664, which is \$303,024 higher than last year. There was a significant surplus of revenues over expenditures.

The ending fund balance of \$2.4 million is comprised of restricted amounts and net investment in capital assets. The restricted fund balance is \$1.9 million. \$450,947 is categorized as net investment in capital assets.

The general fund is the chief operating fund for the Department. The general fund reverts all unreserved fund balance except for restricted amounts classified for Title and Fraud.

The total fund balance of the Department's general fund decreased by \$175,259 during the current fiscal year.

Besides the general fund, the other major funds are the Insurance Operations Fund and the Insurance Suspense Fund. The Insurance Operations Fund is a reverting fund and reverts all unreserved fund balance thus carrying a \$0 fund balance. The Insurance Suspense Fund holds monies throughout the fiscal year that get distributed monthly to other state agencies.

GENERAL FUND BUDGETARY HIGHLIGHTS

Over the course of the year, the Department adjusts its budget as authorized in the Appropriations Act. The budget adjustments fall into the following categories:

- Supplemental and special appropriations that are reflected in the actual beginning account balances (correcting the estimated amounts in the budget adopted for the fiscal year).
- Budget adjustment requests made during the fiscal year to allow the Department to utilize funds where needed.
- Budget adjustment requests that increase or decrease other state funds based on actual revenues.

There was an increase from the original to final budget of \$2,313,000 in the federal revenue line item in expectation of an increase in federal grant funding.

There were no material variances between the final budget line items and the actual results.

CAPITAL ASSETS

At the end of FY18, the Department has invested a total of \$450,947 in governmental-type activities in a variety of capital assets. This amount represents a net increase (including additions and deductions, excluding depreciations) of \$163,284, which is approximately a 57% increase over last fiscal year. The major increases in capital assets during the fiscal year were in the areas of computer equipment.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED)
JUNE 30, 2018**

**Table A-3
Department's Capital Assets
(dollars in thousands)**

| | <u>June 30, 2018</u> | <u>June 30, 2017</u> | <u>Amount Change</u> | <u>Total % Change</u> |
|-----------------------------|--------------------------|------------------------|--------------------------|---------------------------|
| Computer equipment | \$ 666.4 | \$ 408.4 | \$ 258.0 | 63% |
| Furniture and fixtures | 6.8 | 6.8 | - | 0% |
| Vehicles and automotive | <u>362.4</u> | <u>474.5</u> | <u>(112.1)</u> | -24% |
| Total capital assets | <u>\$ 1,035.6</u> | <u>\$ 889.7</u> | <u>\$ 145.9</u> | 16% |

ECONOMIC FACTORS AND NEXT YEAR'S BUDGET AND RATES

The Department's budget is appropriated to the following programs:

- Insurance Policy
- Patient's Compensation Fund
- Special Revenue Fund

The Department's operating budget for FY19 is \$40,369,800 of which \$8,338,900 is shown as a GAAP duplication and includes 85 full-time equivalents (FTE).

As required by the Accountability in Government Act, FY18 was the 17th year the Department has submitted performance based and program budgets. The Department continues to work with the Legislative Finance Committee (LFC) and the State Budget Division to report and streamline measures that are meaningful and useful.

CONTACTING THE DEPARTMENT'S FINANCIAL MANAGEMENT

This financial report is designed to provide citizens, taxpayers, customers, legislators and investors and creditors with a general overview of the Department's finances and to demonstrate the Department's accountability for the money it receives. If you have any questions about this report or need additional financial information, contact:

New Mexico Office of the Superintendent of Insurance
Budget and Finance
1120 Paseo de Peralta
Santa Fe, New Mexico 87501

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF NET POSITION
JUNE 30, 2018**

| | Governmental Activities |
|------------------------------------------|----------------------------|
| ASSETS | |
| Current Assets | |
| State General Fund Investment Pool | \$ 9,520,168 |
| Federal Grants Receivable | 373,045 |
| Other receivables | 54,030,618 |
| Allowance for uncollectible receivables | (1,027,919) |
| Prepaid expenses | 43,410 |
| Total current assets | 62,939,322 |
| Capital Assets | |
| Capital assets, net of depreciation | 450,947 |
| Total assets | 63,390,269 |
| LIABILITIES | |
| Current Liabilities | |
| Accounts payable & accrued expenses | 218,558 |
| Payroll benefits & taxes payable | 142,250 |
| Accrued wage payable | 125,270 |
| Compensated absences | 274,374 |
| Due to State General Fund | 30,841,952 |
| Other liabilities | 6,530,297 |
| Due to other state agencies | 22,098,816 |
| Stale dated warrants | 47,488 |
| Total liabilities | 60,279,005 |
| DEFERRED INFLOWS OF RESOURCES | |
| Unearned revenues - title insurance fees | 732,600 |
| NET POSITION | |
| Net Investment in Capital Assets | 450,947 |
| Restricted for Special Purposes | 1,927,717 |
| Total net position | \$ 2,378,664 |

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED JUNE 30, 2018**

| | | Program Revenues | | | Net (Expense) Revenue and Changes in <u>Net Position</u> |
|---------------------------------------------------|---------------------|----------------------------|------------------------------------------|----------------------------------------|-------------------------------------------------------------------|
| Functions/Programs | Expenses | Charges for Services | Operating Grants and Contributions | Capital Grants and Contributions | Governmental Activities |
| Governmental Activities | | | | | |
| Insurance Regulation | \$ 9,767,457 | \$ 15,950,508 | \$ 1,355,688 | \$ - | \$ 7,538,739 |
| Total governmental activities | <u>\$ 9,767,457</u> | <u>\$ 15,950,508</u> | <u>\$ 1,355,688</u> | <u>\$ -</u> | <u>7,538,739</u> |
| General Revenues | | | | | |
| Reversions to the State General Fund | | | | | (9,743,465) |
| Fraud Fund Assessments | | | | | 1,592,507 |
| Continuing Education Fees | | | | | 250,143 |
| Other Revenue - Net of Amounts Due to Other Funds | | | | | - |
| Special Items - Transfer of Operations | | | | | |
| Transfer from Fiduciary Fund | | | | | 665,100 |
| Transfers - Other Financing Uses | | | | | - |
| Total General Revenues and Special Items | | | | | <u>(7,235,715)</u> |
| Change in net position | | | | | |
| | | | | | 303,024 |
| Net position - beginning of year | | | | | <u>2,075,640</u> |
| Net position - end of year | | | | | <u>\$ 2,378,664</u> |

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
BALANCE SHEET - GOVERNMENTAL FUNDS
JUNE 30, 2018**

| | General Operating Fund 11690 | Insurance Operations Fund 11810 | Insurance Suspense Fund 11820 | Other Governmental Funds | Total Governmental Funds |
|---------------------------------------------------------------|------------------------------------|---------------------------------------|-------------------------------------|--------------------------------|--------------------------------|
| ASSETS | | | | | |
| State General Fund Investment Pool | \$ 1,106,251 | \$ - | \$ 6,572,972 | \$ 1,840,945 | \$ 9,520,168 |
| Federal Grants Receivable | 373,045 | - | - | - | 373,045 |
| Due from Other Funds | - | - | - | - | - |
| Other receivables, net | 63,428 | - | 53,965,568 | 1,623 | 54,030,619 |
| Allowance for uncollectible receivables | (4,223) | - | (1,023,696) | - | (1,027,919) |
| Prepaid expenses | 43,410 | - | - | - | 43,410 |
| Total assets | <u>\$ 1,581,911</u> | <u>\$ -</u> | <u>\$ 59,514,844</u> | <u>\$ 1,842,568</u> | <u>\$ 62,939,323</u> |
| LIABILITIES | | | | | |
| Voucher payable | \$ 218,558 | \$ - | \$ - | \$ - | \$ 218,558 |
| Payroll benefits and taxes payable | 142,250 | - | - | - | 142,250 |
| Accrued wages payable | 125,270 | - | - | - | 125,270 |
| Due to State General Fund | - | - | 30,841,951 | - | 30,841,951 |
| Due to Other State agencies | - | - | 22,098,816 | - | 22,098,816 |
| Other liabilities and unearned revenues | 3,710 | - | 6,526,589 | - | 6,530,299 |
| Stale dated warrants | - | - | 47,488 | - | 47,488 |
| Total liabilities | <u>489,788</u> | <u>-</u> | <u>59,514,844</u> | <u>-</u> | <u>60,004,632</u> |
| DEFERRED INFLOWS OF RESOURCES | | | | | |
| Unearned revenue - title insurance fees | - | - | - | 732,600 | 732,600 |
| FUND BALANCES | | | | | |
| Nonspendable | | | | | |
| Inventory | - | - | - | - | - |
| Prepaid expenses | 43,410 | - | - | - | 43,410 |
| Restricted | | | | | |
| Special purposes | 1,048,713 | - | - | 1,109,968 | 2,158,681 |
| Total fund balances | <u>1,092,123</u> | <u>-</u> | <u>-</u> | <u>1,109,968</u> | <u>2,202,091</u> |
| Total liabilities, deferred inflows, and fund balances | <u>\$ 1,581,911</u> | <u>\$ -</u> | <u>\$ 59,514,844</u> | <u>\$ 1,842,568</u> | <u>\$ 62,939,323</u> |

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
RECONCILIATION OF THE BALANCE SHEET - GOVERNMENTAL FUNDS
TO THE STATEMENT OF NET POSITION
JUNE 30, 2018

Total Fund Balances - Governmental Funds \$ 2,202,091

Amounts reported for governmental activities in the Statement of Net Position are different because:

| | | |
|--------------------------------------------------------------------------------------------------------------------|------------------|----------------------------|
| Long-term receivables not collected in the current period and, therefore, are not reported in the government funds | \$ - | |
| Amounts from long-term receivables due to other funds | - | |
| Governmental capital assets | 1,035,616 | |
| Accumulated depreciation | <u>(584,669)</u> | 450,947 |
| Compensated absences recorded in the Statement of Net Position, but not recorded in the governmental funds | | <u>(274,374)</u> |
| Net Position of Governmental Activities in the Statement of Net Position | | <u>\$ 2,378,664</u> |

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN
FUND BALANCES - GOVERNMENTAL FUNDS
FOR THE YEAR ENDED JUNE 30, 2018

| | General Operating Fund 11690 | Insurance Operations Fund 11810 | Insurance Suspense Fund 11820 | Other Governmental Funds | Total Governmental Funds |
|------------------------------------------------------------------------------------------------|------------------------------------|---------------------------------------|-------------------------------------|--------------------------------|--------------------------------|
| REVENUES | | | | | |
| Insurance tax | \$ - | \$ - | \$ - | \$ 1,592,507 | \$ 1,592,507 |
| Investment earnings | - | - | - | - | - |
| Special appropriations | - | - | - | - | - |
| Miscellaneous | 11,751 | - | - | 14,680 | 26,431 |
| Federal revenue | 1,355,688 | - | - | - | 1,355,688 |
| Other fees | 394,035 | 14,855,779 | - | 949,543 | 16,199,357 |
| Total revenues | <u>1,761,474</u> | <u>14,855,779</u> | <u>-</u> | <u>2,556,730</u> | <u>19,173,983</u> |
| EXPENDITURES | | | | | |
| Current | | | | | |
| Personal services and employee benefits | 6,487,354 | - | - | - | 6,487,354 |
| Contractual services | 2,253,699 | - | - | - | 2,253,699 |
| Other costs | 990,487 | - | - | - | 990,487 |
| Capital outlay | 209,504 | - | - | - | 209,504 |
| Total expenditures | <u>9,941,044</u> | <u>-</u> | <u>-</u> | <u>-</u> | <u>9,941,044</u> |
| Excess (deficiency) of revenues over expenditures before other financing sources (uses) | <u>(8,179,570)</u> | <u>14,855,779</u> | <u>-</u> | <u>2,556,730</u> | <u>9,232,939</u> |
| Other Financing Sources (Uses) | | | | | |
| Operating Transfers In - Intra-Agency | 8,962,897 | - | - | - | 8,962,897 |
| Operating Transfers Out - Intra-Agency | - | (6,070,900) | - | (2,226,898) | (8,297,798) |
| Reversions to State General Fund | (958,586) | (8,784,879) | - | - | (9,743,465) |
| Operating Transfers In Inter-Agency | - | - | - | - | - |
| Operating Transfers Out Inter-Agency | - | - | - | - | - |
| Total other financing sources (uses) | <u>8,004,311</u> | <u>(14,855,779)</u> | <u>-</u> | <u>(2,226,898)</u> | <u>(9,078,366)</u> |
| Net changes in fund balances | <u>(175,259)</u> | <u>-</u> | <u>-</u> | <u>329,832</u> | <u>154,573</u> |
| Fund Balances - beginning | <u>1,267,382</u> | <u>-</u> | <u>-</u> | <u>780,136</u> | <u>2,047,518</u> |
| Fund Balances - ending | <u>\$ 1,092,123</u> | <u>\$ -</u> | <u>\$ -</u> | <u>\$ 1,109,968</u> | <u>\$ 2,202,091</u> |

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
RECONCILIATION OF THE STATEMENT OF REVENUES, EXPENDITURES,
AND CHANGES IN FUND BALANCES - GOVERNMENTAL FUNDS TO THE
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED JUNE 30, 2018

Net Changes in Fund Balances - Total Governmental Funds \$ 154,573

Amounts reported for governmental activities in the Statement of Activities
are different because:

| | | | |
|--------------------------------|----|------------------|--------------------------|
| Capital asset additions | \$ | 284,504 | |
| Depreciation expense | | <u>(121,220)</u> | |
| Change in capital assets | | | 163,284 |
| | | | |
| Change in compensated absences | | | 10,304 |
| Note receivable | | | <u>(25,137)</u> |
| | | | |
| Change in Net Position | | | <u><u>\$ 303,024</u></u> |

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF REVENUES, EXPENDITURES, AND
CHANGES IN FUND BALANCES - BUDGET AND ACTUAL
GENERAL OPERATING FUND - 11690 (P795, Z30713)
FOR THE YEAR ENDED JUNE 30, 2018**

| | Budgeted Amounts | | Budgetary Basis Actual Amounts | Variance with Final Budget Positive (Negative) |
|---------------------------------------------|-------------------|-------------------|-----------------------------------|---------------------------------------------------------|
| | Original | Final | | |
| REVENUES | | | | |
| Insurance tax | \$ - | \$ - | \$ - | \$ - |
| Investment earnings | - | - | - | - |
| Special appropriation | 342,189 | 342,189 | - | (342,189) |
| Other financing sources | 9,004,000 | 9,004,000 | 8,962,897 | (41,103) |
| Other state funds | - | - | - | - |
| Miscellaneous | - | - | 11,751 | 11,751 |
| Federal revenue | 1,287,200 | 3,600,200 | 1,355,688 | (2,244,512) |
| Other fees | - | - | 394,035 | 394,035 |
| Total revenues | 10,633,389 | 12,946,389 | 10,724,371 | (2,222,018) |
| EXPENDITURES | | | | |
| Personal services/employee benefits | 7,460,700 | 7,270,700 | 6,487,354 | 783,346 |
| Contractual services | 1,444,000 | 3,662,300 | 2,253,699 | 1,408,601 |
| Other | 1,386,500 | 1,671,200 | 1,199,991 | 471,209 |
| Total expenditures | 10,291,200 | 12,604,200 | 9,941,044 | 2,663,156 |
| Excess of revenues over expenditures | | | 783,327 | |
| GAAP Basis Reconciliation | | | | |
| Reversions to State General Fund | | | (958,586) | |
| Net Change in Fund Balances | | | \$ (175,259) | |

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF REVENUES, EXPENDITURES, AND
CHANGES IN FUND BALANCES - BUDGET AND ACTUAL
INSURANCE OPERATIONS FUND - 11810 (P790)
FOR THE YEAR ENDED JUNE 30, 2018**

| | Budgeted Amounts | | Budgetary Basis Actual Amounts | Variance with Final Budget Positive (Negative) |
|---------------------------------------------|------------------|------------------|-----------------------------------|---------------------------------------------------------|
| | Original | Final | | |
| REVENUES | | | | |
| Insurance tax | \$ - | \$ - | \$ - | \$ - |
| Investment earnings | - | - | - | - |
| Special appropriation | - | - | - | - |
| Other state funds | - | - | - | - |
| Miscellaneous | - | - | - | - |
| Federal revenue | - | - | - | - |
| Other fees | <u>6,070,900</u> | <u>6,070,900</u> | <u>14,855,779</u> | <u>8,784,879</u> |
| Total revenues | <u>6,070,900</u> | <u>6,070,900</u> | <u>14,855,779</u> | <u>8,784,879</u> |
| EXPENDITURES | | | | |
| Personal services/employee benefits | - | - | - | - |
| Contractual services | - | - | - | - |
| Other | - | - | - | - |
| Other financing sources | <u>6,070,900</u> | <u>6,070,900</u> | <u>6,070,900</u> | <u>-</u> |
| Total expenditures | <u>6,070,900</u> | <u>6,070,900</u> | <u>6,070,900</u> | <u>-</u> |
| Excess of revenues over expenditures | | | 8,784,879 | |
| GAAP Basis Reconciliation | | | | |
| Reversions to State General Fund | | | <u>(8,784,879)</u> | |
| Net Change in Fund Balances | | | <u>\$ -</u> | |

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF REVENUES, EXPENDITURES, AND
CHANGES IN FUND BALANCES - BUDGET AND ACTUAL
INSURANCE SUSPENSE FUND - 11820 (P790)
FOR THE YEAR ENDED JUNE 30, 2018**

| | Budgeted Amounts | | Budgetary Basis Actual Amounts | Variance with Final Budget |
|---------------------------------------------|------------------|----------|-----------------------------------|-------------------------------|
| | Original | Final | | Positive (Negative) |
| REVENUES | | | | |
| Insurance tax | \$ - | \$ - | \$ - | \$ - |
| Investment earnings | - | - | - | - |
| Special appropriation | - | - | - | - |
| Other state funds | - | - | - | - |
| Miscellaneous | - | - | - | - |
| Federal revenue | - | - | - | - |
| Other fees | - | - | - | - |
| Total revenues | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> |
| EXPENDITURES | | | | |
| Personal services/employee benefits | - | - | - | - |
| Contractual services | - | - | - | - |
| Other | - | - | - | - |
| Other financing sources | - | - | - | - |
| Total expenditures | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> |
| Excess of revenues over expenditures | | | - | |
| GAAP Basis Reconciliation | | | | |
| Reversions to State General Fund | | | <u>-</u> | |
| Net Change in Fund Balances | | | <u><u>\$ -</u></u> | |

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF FIDUCIARY NET POSITION
FIDUCIARY FUNDS
PATIENT'S COMPENSATION FUND CLAIMS - 11850
JUNE 30, 2018

| | <u>Private- Purpose Trust</u> |
|------------------------------------|---------------------------------------|
| ASSETS | |
| State General Fund Investment Pool | \$ 25,009,247 |
| Investments, at fair value | |
| Core Bond Fund | 25,345,686 |
| Large Cap Index | 4,598,646 |
| Non US Developed Index | 1,935,200 |
| Non US Emerging Markets | 1,404,336 |
| Mid/Small Cap | <u>1,863,506</u> |
| Total investments | <u>35,147,374</u> |
| Total assets | <u>60,156,621</u> |
| LIABILITIES | |
| Claims payables | 2,065,943 |
| Vouchers payable | 1,125,936 |
| Payroll benefits and taxes payable | 1,577 |
| Accrued wages payable | 1,249 |
| Other liabilities | - |
| PCF long-term claims/liabilities | <u>91,200,000</u> |
| Total liabilities | <u>94,394,705</u> |
| NET POSITION | |
| Held in trust for claims (deficit) | <u>\$ (34,238,084)</u> |

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF CHANGES IN FIDUCIARY NET POSITION
FIDUCIARY FUNDS
PATIENT'S COMPENSATION FUND CLAIMS - 11850
FOR THE YEAR ENDED JUNE 30, 2018

| | Private- Purpose Trust |
|-------------------------------------------|------------------------------|
| ADDITIONS | |
| Plan participant surcharges | \$ 38,054,401 |
| Investment earnings | |
| Net increase in fair value of investments | 1,335,642 |
| Interest | 163,293 |
| Dividends | - |
| Total investment earnings | 1,498,935 |
| Less investment expense | 71,226 |
| Net investment earnings | 1,427,709 |
| Total additions | 39,482,110 |
| DEDUCTIONS | |
| Personnel services and employee benefits | 74,502 |
| Contractual services | 297,434 |
| Other costs | 376,456 |
| Claims paid | 21,639,372 |
| Claims legally authorized at June 30 | - |
| Actuarial adjustment to estimated claims | 24,800,000 |
| Other intra-agency transfer | 665,100 |
| Total deductions | 47,852,864 |
| Change in net position | (8,370,754) |
| Net position - Beginning of Year | <u>(25,867,330)</u> |
| Net position - End of Year | \$ (34,238,084) |

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF FIDUCIARY NET POSITION
FIDUCIARY FUNDS
POLICY HOLDERS AND CREDITORS - 11870
JUNE 30, 2018

| | <u>Private- Purpose Trust</u> |
|------------------------------------------------|---------------------------------------|
| ASSETS | |
| Cash held in banks for ancillary receiverships | \$ 1,994,647 |
| Investments, at fair value | |
| US Government Obligations | 448,958,863 |
| Other Governmental Bonds | 97,845,070 |
| Corporate Investments | 7,914,504 |
| Other Investments | <u>4,505,000</u> |
| Total investments | <u>559,223,437</u> |
| Total assets | <u>561,218,084</u> |
| LIABILITIES | |
| Policy holders & creditors payable | - |
| Earnings payable per 59A-10-7 NMSA 1978 | - |
| Vouchers payable | - |
| Other liabilities | <u>-</u> |
| Total liabilities | <u>-</u> |
| NET POSITION | |
| Held in trust for policy holders and creditors | <u>\$ 561,218,084</u> |

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF CHANGES IN FIDUCIARY NET POSITION
FIDUCIARY FUNDS
POLICY HOLDERS AND CREDITORS - 11870
FOR THE YEAR ENDED JUNE 30, 2018

| | Private- Purpose Trust |
|--------------------------------------------------------------|------------------------------|
| ADDITIONS | |
| Ancillary Receivership Deposits | \$ 119,266 |
| Earnings from Ancillary Accounts | 3,720 |
| Investment earnings | |
| General & Special Deposits Received | 224,652,574 |
| Net increase in fair value of investments | 5,396,736 |
| Interest | - |
| Dividends | - |
| Total investment earnings | 230,049,310 |
| Less investment expense | - |
| Net investment earnings | 230,049,310 |
| Total additions | 230,172,296 |
| DEDUCTIONS | |
| Ancillary Receivership Legal Services | 36,545 |
| Distributions to NM Property & Casualty Guaranty Association | - |
| Other - service charge | 60 |
| Investments | - |
| General & Special Deposit Withdrawals | 223,211,204 |
| Earnings Paid Per 59A-10-7 NMSA 1978 | - |
| Total deductions | 223,247,809 |
| Change in net position | 6,924,487 |
| Net position - Beginning of Year | 1,908,266 |
| Restatement | 552,385,331 |
| Beginning net position, as restated | 554,293,597 |
| Net position - End of Year | \$ 561,218,084 |

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
NOTES TO THE FINANCIAL STATEMENTS
JUNE 30, 2018**

NOTE 1. HISTORY AND FUNCTION

The Office of Superintendent of Insurance (the Department or OSI) was created on July 1, 2013, pursuant to the passage of Constitutional Amendment 4 during the 2012 General Election and the subsequent enactment of House Bill 45 (Laws of 2013, Chapter 74) from the 1st Session of the 51st Legislature. These actions removed the insurance regulatory function from the Public Regulation Commission (where it was housed as the “Insurance Division”) and placed it in a newly-created adjunct state agency entitled the “Office of Superintendent of Insurance.” The enabling legislation also created an Insurance Nominating Committee to appoint the Superintendent of Insurance.

The chief executive of the Department is the Superintendent of Insurance, who is appointed by the Insurance Nominating Committee. The current Superintendent was re-appointed by the Insurance Nominating Committee in March 2016, and this appointment runs through December 31, 2019. These financial statements include all funds, account groups and activities over which the Superintendent has oversight responsibility. The Superintendent has decision-making authority, the power to designate management, the responsibility to significantly influence operations and has primary accountability for fiscal matters.

A primary government is any state or general-purpose local government consisting of all the organizations that make up its legal entity. All funds, organizations, institutions, agencies, departments, and offices that are not legally separate are, for financial reporting purposes, part of the primary government. The Office, therefore, is part of the primary government of the State of New Mexico and its financial data should be included with the financial data of the State. The Department is not included in any other governmental “reporting entity” as defined in Section 2100, *Codification of Governmental Accounting and Financial Reporting Standards*. Copies of the State of New Mexico’s Comprehensive Annual Financial Report can be requested from the Department of Finance and Administration, Financial Control Division/State Controller, Bataan Memorial Building Room 320, Santa Fe, NM 87501.

In accordance with the criteria set forth in Governmental Accounting Standards Board (GASB) Statements No. 14 and 61 for determining component units, OSI does not have component units.

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. FINANCIAL REPORTING ENTITY

The financial statements for OSI have been prepared in accordance with Generally Accepted Accounting Principles (GAAP) as applied to governmental units. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles. The GASB periodically updates its codification of the existing Governmental Accounting and Financial Reporting Standards that along with subsequent GASB pronouncements (Statements and Interpretations), constitutes GAAP for governmental units. More significant of these accounting policies are described below.

The Department complies with GASB No. 54. In the governmental fund financial statements, fund balances are classified as non-spendable, restricted, or unrestricted (committed, assigned, or unassigned). Restricted represents those portions of fund balance where constraints placed on the resources are either externally imposed or imposed by law through constitutional provisions or enabling legislation. Committed fund balance

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2018

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

represents amounts that can only be used for specific purposes pursuant to constraints imposed by formal action of the Legislative and Executive branches of the State. Assigned fund balance is constrained by the Legislature's and Executive Branch's intent to be used for specific purposes or in some cases by legislation.

The above statement did not have a significant impact on the financial statements of the Department.

B. BASIC FINANCIAL STATEMENTS

The basic financial statements include both government-wide (based on OSI as a whole) and fund financial statements. The reporting model focus is on either OSI as a whole or major individual funds (within the fund financial statements). Both the government-wide and fund financial statements (within the basic financial statements) categorize primary activities as either governmental or business-type activities. OSI is a single purpose government entity and has no business-type activities. In the government-wide Statement of Net Position, the governmental activities column is presented on a consolidated basis by column using the economic resources measurement focus and the accrual basis of accounting and incorporates long-term assets and receivables as well as long-term debt and obligations. Additionally, internal activity has been eliminated at this level of presentation.

The government-wide Statement of Activities reflects both the gross and net cost per functional category (education, labor, transportation, etc.), which are otherwise being supported by general government revenues. The Statement of Activities reduces gross expenses (including depreciation expense on capital assets) by related program revenues, operating and capital grants. The program revenues must be directly associated with the function which consists of grants and fees.

The net cost is normally covered by general revenues (taxes, intergovernmental revenues, interest income, etc.). Historically, the previous model did not summarize or present net cost by function or activity. The Department does not currently employ indirect cost allocation systems.

This government-wide focus is more on the sustainability of the Department as an entity and the change in aggregate financial position resulting from the activities of the fiscal period.

The fund financial statements are similar to the financial statements presented in the previous accounting model. Emphasis here is on the major funds of the governmental categories. Non-major funds (by category) or fund type are summarized into a single column. OSI's major funds are the General Fund and the Insurance Operations Fund.

The governmental fund statements are presented on the current financial resource's measurement focus and modified accrual basis of accounting. This presentation is deemed appropriate to (a) demonstrate legal compliance, (b) demonstrate the source and use of liquid resources, and (c) demonstrate how OSI's actual experience conforms to the budget or fiscal plan. Since the governmental fund statements are presented on a different measurement focus and basis of accounting than the government-wide statements' governmental column, a reconciliation is presented on the page following each statement, which briefly explains the adjustment necessary to transform the fund based financial statements into the governmental column on the governmental-wide presentation.

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2018

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

OSI's fiduciary funds (two private-purpose trust funds) are presented in the fund financial statements in total. Since, by definition, these assets are being held for the benefit of a third party and cannot be used to address activities or obligations of the government, these funds are not incorporated into the government-wide statements. Conversely other governmental resources cannot be used to address activities or obligations of the fiduciary funds.

C. BASIS OF PRESENTATION

The financial transactions of the Department are recorded in individual funds, each of which is considered a separate accounting entity. The operations of each fund are accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, fund balance, revenues, expenditures or expenses, and other financing sources or uses. Government resources are allocated to, and accounted for, in individual funds based upon the purpose for which they are to be spent and the means by which spending activities are controlled. The various funds are summarized by type in the accompanying financial statements.

OSI uses the following fund types:

Governmental Fund Types

All governmental fund types are accounted for on a spending or financial flow measurement focus. Only current assets and current liabilities are generally included on their balance sheet. Their reported fund balance (net current assets) is considered a measure of available spendable resources. Governmental fund operating statements present increases (revenues and other financing sources) and decreases (expenditures and other financing uses) in net current assets. Accordingly, they are said to present a summary measurement focus, expenditure recognition for governmental fund types is limited to exclude amounts represented by non-current liabilities. Since they do not affect net current assets, such long-term amounts are not recognized as governmental fund type expenditures or fund liabilities. The following is a description of the Governmental Funds of the Department.

General Fund: (Also known as the Insurance Operating Fund) is the general operating fund of the Department and considered a major fund. It is used to account for all financial resources except those required to be accounted for in another fund. This is a reverting fund, with the exception of amounts received from federal grants and other proceeds legally restricted. The General Fund is SHARE System fund 11690.

Special Revenue Funds: Used to account for the proceeds of specific revenue sources (other than expendable trusts or major capital projects) that are legally restricted to expenditures for specified purposes. The Special Revenue non-major funds are SHARE System fund 11830 Insurance Licensee Continuing Education, 11840 Insurance Examination Fund, 11860 Title Insurance Maintenance Assessment, and 11880 Insurance Fraud Fund.

In addition, 11820 Insurance Suspense Fund, was recorded in the FY17 financial statements as a Special Revenue Fund rather than an Agency Fund as recorded in previous years. This change was required by the Department of Finance and Administration to ensure compliance with GAAP. This is a major fund in these FY18 financial statements and is a reverting fund (59A-6-5 NMSA 1978).

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2018**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

State Statute governs how much, if any, amounts remaining in these funds revert to the State at year end.

Insurance Operations Fund: A major special revenue fund that consists of the money received by OSI that is part of the balance derived from the fees imposed pursuant to subsections A & E of 59A-6-1 NMSA 1978 other than the fees derived from property and vehicle insurance business. The legislature shall annually appropriate from the fund to OSI those amounts necessary for the division to carry out its responsibilities pursuant to the Insurance Code and other laws. Any balance in the fund at the end of a fiscal year greater than one-half of that fiscal year's appropriation shall revert to the general fund. The Insurance Operations Fund is SHARE System fund 11810.

Fiduciary Fund Types

Fiduciary funds are used to report assets held in trustee or agency capacity for others and therefore are not available to support OSI programs. The reporting focus is upon net position and changes in net position and employs accounting principles similar to proprietary funds.

Patient's Compensation Fund: A private-purpose trust fund to account for funds accumulated for payments of claims for bodily injury or death due to malpractice by a health care provider insured under the Medical Malpractice Act. This fund was created by Section 41-5-1 through 42-528, NMSA 1978 "Medical Malpractice Act". The purpose of the act is to promote the health and welfare of the people of New Mexico by making available professional liability insurance for health care providers in New Mexico. The Patient's Compensation Fund is SHARE System fund 11850 and is referred to as the PCF.

Assets Held in Trust for Policy Holders and Creditors: This is a private-purpose trust fund to account for assets held in trust per 59A-5-18 and 59A-5-19 NMSA 1978. The insurance code requires companies wishing to transact business in New Mexico to deposit certain securities in trust for the benefit of policy holders and creditors. Insurance company rights during solvency are detailed in 59A-10-7 and include any earnings on these required deposits. When a delinquency occurs, the securities are liquidated for policy holders and creditors according to 59A-41-18 NMSA 1978. The Assets Held in Trust for Policy Holders and Creditors fund is SHARE System fund 11870 and is referred to as the Trust Fund.

Non-Current Governmental Assets/Liabilities

GASB Statement No. 34 eliminated the presentation of Account Groups for fixed assets and long-term debt but provides for these records to be maintained and incorporates the information into the Governmental column in the government-wide Statement of Net Position.

D. BASIS OF ACCOUNTING

Basis of accounting refers to the point at which revenues or expenditure/expenses are recognized in the accounts and reported in the financial statements. It relates to the timing of the measurements made, regardless of the measurement focus applies.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2018**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

The Government-wide Financial Statements and the Fiduciary Fund Financial Statements are presented on an accrual basis of accounting. The Governmental Funds in the Fund Financial Statements are presented on a modified accrual basis.

Accrual. Under the accrual method of accounting revenues are recognized when earned and expenses are recognized when incurred.

Modified Accrual. All governmental funds utilize the modified accrual basis of accounting. Under the modified accrual basis of accounting, revenues and other governmental fund resource increments are recognized in the accounting period in which they become susceptible to accrual – that is, when they become both measurable and available to finance expenditures of the current fiscal period; “available” means collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period. The Department considers funds available if received within “60 days” after year-end. Expenditures are generally recognized under the modified accrual basis of accounting when the related liability is incurred.

Revenues from grants that are restricted for specific uses are recognized as revenues and as receivables when the related costs are incurred and all other eligibility requirements are met. Contributions and other monies held by other state and local agencies are recorded as a receivable at the time the money is made available to the specific fund. Revenues collected for future periods are deferred until available. All other revenues are recognized when they are received and are not susceptible to accrual.

Program revenues consist of federal grants. Charges for services consist primarily of fees charged to regulated entities.

Expenditures are recorded as liabilities when incurred. An exception to this general rule is that accumulated unpaid annual, compensatory and certain sick leave are accrued as current liabilities. Expenditures charged to federal programs are recorded utilizing the cost principle described by the various funding sources.

In applying the “susceptible to accrual” concept to intergovernmental revenues pursuant to GASB Statement No. 33, *Accounting and Financial Reporting for Nonexchange Transactions* the provider should recognize liabilities and expenses and the recipient should recognize receivables and revenues when the applicable eligibility requirements including time requirements, are met. Resources transmitted before the eligibility requirements are met, under most circumstances, should be reported as advances by the provider and deferred revenue by the recipient.

E. BUDGETS AND BUDGETARY ACCOUNTING

The New Mexico State Legislature makes annual appropriations to the Department, which lapse at fiscal year-end. Legal compliance is monitored through the establishment of a budget (modified accrual basis) and a financial control system, which permits a budget to actual expenditure comparison. Expenditures may not legally exceed appropriations for each budget at the program appropriation unit level. Budgeted appropriation unit amounts may be amended upon approval from the Budget Division of the State of New Mexico Department

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2018

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

of Finance and Administration within the limitation as specified in the General Appropriation Act. The budget amounts shown in the financial statements are the final authorized amounts as legally revised during the year.

The budget is adopted on a modified accrual basis of accounting except for accounts payable accrued at the end of the fiscal year that do not get paid by the statutory deadline (Section 6-10-4 NMSA 1978) that must be paid out of next year's budget. A reconciliation of budgetary basis of GAAP basis will be necessary if any accounts payable at the end of the fiscal year are not paid by the statutory deadline. The Department has not included such reconciliation for FY18 as all payables were paid by the statutory deadline. Each year the Legislature approves multiple year appropriations, which the State considers as continuing appropriations. The Legislature authorizes these appropriations for two to five years; however, it does not identify the authorized amount by fiscal year. Consequently, the appropriation is budgeted in its entirety the first year the Legislature authorizes it. The unexpended portion of the budget is carried forward as the next year's beginning budget balance until either the project period has expired or the appropriation has been fully expended. The budget presentations in these financial statements are consistent with this budgeting methodology.

The budgetary basis differs from the basis of accounting required by Generally Accepted Accounting Principles (GAAP). Significant differences between the budgetary basis and GAAP include the following:

1. The budget does not consider reversions to the State General Fund.
2. The budget includes encumbrances (obligations for unperformed contracts for goods or services). GAAP does not include encumbrances, for multi-year appropriations only.
3. The budget statements are presented on modified accrual basis.

The Department follows these procedures in establishing the budgetary data reflected in the financial statements:

1. No later than September 1, the Department submits to the Legislative Finance Committee (LFC), and the Budget Division of the Department of Finance and Administration (DFA), an appropriation request for the fiscal year commencing the following July 1. The appropriation request includes proposed expenditures and the means of financing them.
2. Budget hearings are scheduled before the New Mexico House Appropriations and Senate Finance Committees. The final outcome of those hearings is incorporated into the State's General Appropriation Act.
3. The Act is signed into Law by the Governor of the State of New Mexico within the legally prescribed time limit, at which time the approved budget becomes a legally binding document.
4. Not later than May 1, the Department submits to DFA an annual operating budget by appropriation unit and account code based upon the appropriation made by the Legislature. The Budget Division of DFA reviews and approves the operating budget, which becomes effective on July 1. All subsequent budget adjustments must be approved by the Director of the DFA-State Budget Division and LFC.
5. Formal budgetary integration is employed as a management control device during the fiscal year for the General and Special Revenue Funds. Fiduciary funds are not budgeted as they have no expenditure activity.

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2018

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

F. ENCUMBRANCES

Encumbrances represent commitments related to unperformed contracts for goods and services. Encumbrance accounting, under which purchase orders, contracts, and other commitments for the expenditure of monies are recorded in order to reserve that portion of the applicable appropriation, is employed as an extension of formal budget integration in the governmental funds. All current year encumbrances lapsed at year-end. In cases where the appropriations do not lapse at year-end, the encumbrances outstanding are re-encumbered for the same amount outstanding at year-end and do not constitute expenditures or liabilities because the commitments will be honored during the subsequent year. The Department does have an appropriation, which is multiple year and does not lapse at year-end.

G. ASSETS, LIABILITIES AND FUND BALANCE

1. Cash and Cash Equivalents. The Department's interest in the pooled cash on deposit with the State Treasurer's Office (STO) and Ancillary Receivership Accounts on deposit with area banks is considered cash and cash equivalents. The Ancillary Receivership Accounts represent funds held in trust for the payment of claims for insurance companies, which are in receivership.

2. Investments. Investments in the private-purpose trust fund, Patient's Compensation Fund (SHARE Fund 11850), are held with the State Investment Council. The Investment Council operates in accordance with appropriate State law and regulations. Interest on investments is recorded as revenue in the year the interest is earned. Additionally, OSI holds investments for the private-purpose trust fund for Policy Holders and Creditors (SHARE Fund 11870). These investments are purchased by the participating insurance companies. OSI does not purchase these investments; the financial institution verifies the investment rating is allowable with state statute (59A-6-3 NMSA 1978). Because the purpose is not for the government to earn income or make a profit, and investment decisions are not made by OSI, therefore, GASB No. 72, fair value measurement and application, does not apply.

3. Receivables. OSI has amounts receivable from federal awards, memorandums of understanding, insurance premium tax receivables, and a retired employee. Insurance premium tax receivables are net of estimated overpayments, underpayments, and New Mexico Medical Insurance Pool (NMMIP) credits.

4. Federal Grants Receivable. Various reimbursement procedures are used for federal awards received by the Department. Consequently, timing differences between expenditures and program reimbursements can exist at any time during the fiscal year. Receivable balances at fiscal year-end represent amounts expended during the fiscal year that are related to a federal grant, however the reimbursement for the expenditure was not received prior to the end of the fiscal year.

5. Inter-fund Receivables and Payables. Short-term amounts owed between funds are classified as "Due to/from Other Funds".

6. Prepaid Items. These amounts represent prepayment of postage, which has benefit to OSI beyond the fiscal year, ending June 30, 2018. Prepaid items are expensed when consumed under the consumption method. Therefore, these items are allocated to the fiscal year in which they are used. A portion reported in non-spendable fund balance represents a prepaid item.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2018**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

7. Capital Assets. Property, plant and equipment purchased or acquired at a value of \$5,000 or greater are capitalized per Section 12-6-10 NMSA 1978. Assets are carried at historical cost or estimated historical cost. Contributed assets are recorded at the fair market value as of the date received. Additions, improvements and other capital outlays that significantly extend the useful life of an asset are capitalized. Other costs incurred for repairs and maintenance are expensed as incurred.

Depreciation on all assets is provided on the straight-line basis over the following estimated useful lives with no salvage value. The Department utilized American Appraisal to determine the useful lives based on generally accepted useful lives for the different classes and types of assets.

Machinery and Equipment

Other Personal Property – 12 years

Computer Equipment (including software) – 3 to 10 years

Furniture, Fixtures, and Accessories – 6 to 20 years

Automotive – 8 years

The Department utilizes a building that is owned by the Facilities Management Division of the State of New Mexico General Services Department. These assets and the related depreciation expense are not included in the accompanying financial statements. GASB Statement No. 34 requires the recording and depreciation of infrastructure assets. Infrastructure assets include roads, bridges, traffic signals, etc. The Department does not own any infrastructure assets.

8. Compensated Absences. Qualified employees are entitled to accumulate annual leave according to a graduated leave schedule of 80 to 160 hours per year, depending upon length of service and employees hire date. A maximum of thirty working days (240 hours) of accumulated annual leave may be carried forward into the beginning of the calendar year and any excess leave is lost.

When employees terminate, they are compensated for accumulated annual leave as of the date of termination, up to a maximum of 240 hours.

Qualified employees are entitled to accumulate sick leave at the rate of one day for each calendar month of service. There is no limit to the amount of sick leave that an employee may accumulate. Pursuant to the provisions of Subsection I of 1.7.7.10 NMAC and § 10-7-10 NMSA: once per fiscal year in either January or July, employees may elect to be paid for 50% of accrued sick leave in excess of 600 up to 720 hours, but not to exceed 120 hours (net 60 hours can be paid). At retirement, employees can receive 50% payment up to 400 hours for the hours over 600 hours of accumulated sick leave. Therefore, only sick leave which has been accrued represents the hours earned at June 30, 2018, over 600 hours. Expenditures for accumulated sick pay for hours under 600 hours will be recognized as employees take such absences.

Compensatory time may be granted to individuals when overtime is needed.

The non-current portion (the amount estimated to be used in subsequent fiscal years) for Governmental Funds is maintained separately and represents a reconciling item between the fund and government-wide presentations.

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2018

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

9. Unearned Revenues. The unearned revenues of \$732,600 are Title Insurance Maintenance Fund Assessments for FY19 that were received by OSI prior to July 1, 2018.

10. Deferred Inflows/Outflows. In addition to assets, the Statement of Net Position will sometimes report a separate section for deferred outflows of resources. This separate financial statement element, deferred outflows of resources, represents a consumption net position that applies to a future period(s) and so will not be recognized as an outflows of resources (expense/expenditures) until then. It has a positive effect on net position, similar to assets. The Department did not have any items that qualified for reporting in this category as of June 30, 2018.

In addition to liabilities, the Statement of Net Position will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, deferred inflows of resources, represents a consumption net position that applies to a future period(s) and so will not be recognized as an inflows of resources (revenue) until then. It has a negative effect on net position, similar to liabilities. The Department had Deferred Inflows reported in the June 30, 2018 financial statements for Title Insurance fees paid in advance.

11. Reservations of Fund Balance. The Department complies with GASB No. 54—Fund Balance Reporting and Governmental Fund Type Definitions. The pronouncement provides modifications to, and additional types of, fund balance classifications. This statement will enhance the usefulness of fund balance information to provide more consistency among the classifications and will establish reporting standards for all governments that report governmental funds. The definition of each classification is summarized below:

Non-Spendable Fund Balance - The non-spendable fund balance classification is the portion of fund balance that includes amounts that cannot be spent because they are either (a) not in spendable form or (b) legally or contractually required to be maintained intact. The “not in spendable form” criterion includes items that are not expected to be converted to cash, for example, inventories and prepaid amounts.

Restricted Fund Balance - The restricted fund balance classification is the portion of fund balance that reflects constraints placed on the use of resources (other than non-spendable items) that are either: (a) externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments; or (b) imposed by law through constitutional provisions or enabling legislation.

Committed Fund Balance - The committed fund balance classification is the portion of fund balance that can only be used for specific purposes pursuant to constraints imposed by formal action of the government's highest level of decision-making authority.

Assigned Fund Balance - The assigned fund balance classification is the portion of fund balance that are constrained by the government's *intent* to be used for specific purposes, but that are neither restricted nor committed.

Unassigned Fund Balance - The unassigned fund balance classification is the portion of fund balance that is residual classification for the general fund. This classification represents fund balance that has not been assigned to other funds and that has not been restricted, committed, or assigned to specific purposes within the general fund.

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2018

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

H. NET POSITION

The government-wide Fund Financial Statements utilize a net position presentation. Net position is categorized as investment in capital assets, restricted, and unrestricted. It is OSI's policy to first apply restricted resources when there is an expense for purposes for which both restricted and unrestricted net position are available.

Net Investment in Capital Assets – is intended to reflect the portion of net position which are associated with non-liquid, capital assets less outstanding capital asset related debt. The total net investment in capital assets is \$450,947.

Restricted Net Position – are liquid assets (generated from revenues and not bond proceeds), which have third-party constraints placed on their use either by (1) external groups such as creditors, grantors, contributors or laws or regulations of other governments or (2) law through constitutional provisions or enabling legislation limiting their use. OSI complies with GASB No. 46 "Net Assets Restricted by Enabling Legislation". The amount of net position restricted by enabling legislation is \$1,927,717.

Unrestricted Net Position (Deficit) – represent all other unrestricted liquid assets that do not meet the definition of "restricted net position" or "net invested in capital assets". Unrestricted deficit results mainly from the recording of the compensation absences liability and litigation liability for which future appropriations will pay the liability. The amount of unrestricted net position is \$0.

I. USE OF ESTIMATES

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates and those differences could be material.

NOTE 3. CASH AND INVESTMENTS

State law (Section 8-6-3 NMSA 1978) requires the Department's cash be managed by the New Mexico State Treasurer's Office (STO). At June 30, 2018 the Department had \$44,632,943 invested in the State General Fund Investment Pool. OSI believes the cash invested in the State General Fund Investment Pool is represented fairly and with no material misstatements due to the reconciliation done by OSI. The Department has established internal processes applying the State of New Mexico Manual of Model Accounting Practices (MAP). These processes are designated to implement necessary and mandatory controls to avert accounting errors and violations of state and federal laws and rules related to financial matters. In addition, the Department ensures that any disbursement of funds does not exceed the unencumbered funds at its disposal. Incorporating the State's financial software system (SHARE) and monthly internal reporting and reconciliation throughout the fiscal year, OSI maintains optimum fiscal safeguards. This ensures that the cash balances in SHARE are correct to the extent that OSI has control (i.e. collection, depositing, reconciling, and documentation of outstanding items) of the cash, its receipts and transfers to the state general fund and other state agencies pursuant to state statute.

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OFFICE OF SUPERINTENDENT OF INSURANCE
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2018**

NOTE 3. CASH AND INVESTMENTS (CONTINUED)

Any discrepancies are researched immediately. Expenditure support is retained with all transactions. Due to these controls, the Department believes the value of its share of the SGFIP at June 30, 2018 materially approximates \$44,632,943, including fiduciary funds. The following is a summary of the Department's interest in the State Treasurer General Fund Investment Pool:

| Name of Depository | Account Name | SHARE System Fund No. | Maturities | Type of Deposit | Interest Bearing | Bank/DFA Statement Balance at 6/30/2018 |
|-------------------------------------------------------|------------------------------|-----------------------------|------------|----------------------|---------------------|--------------------------------------------------|
| General Fund: | | | | | | |
| NM State Treasurer | Insurance Operating Fund | 11690 | <180 days | State Treasury | No | <u>\$ 1,106,251</u> |
| Total General Fund | | | | | | <u>1,106,251</u> |
| Special Revenue Funds: | | | | | | |
| NM State Treasurer | Insurance Operations Fund | 11810 | <180 days | State Treasury | No | - |
| NM State Treasurer | Insurance Suspense Fund | 11820 | <180 days | State Treasury | No | 6,572,972 |
| NM State Treasurer | Insurance Licensee Cont Educ | 11830 | <180 days | State Treasury | No | 344,106 |
| NM State Treasurer | Insurance Examination Fund | 11840 | <180 days | State Treasury | No | 1,387 |
| NM State Treasurer | Title Ins Maintenance Assess | 11860 | <180 days | State Treasury | No | 1,066,301 |
| NM State Treasurer | Insurance Fraud Fund | 11880 | <180 days | State Treasury | No | <u>429,151</u> |
| Total Special Revenue Funds | | | | | | <u>8,413,917</u> |
| Fiduciary Funds: | | | | | | |
| NM State Treasurer | Patient's Compensation Fund | 11850 | <180 days | State Treasury | Yes | <u>25,009,247</u> |
| Total Agency Fund | | | | | | <u>25,009,247</u> |
| Department Total | | | | | | <u>\$ 34,529,415</u> |
| Reconciliation Between SGFIP and Financial Statements | | | | | | |
| Amounts held in the SGFIP at June 30, 2018 | | | | \$ 44,632,943 | | |
| Reconciling Items - Timing Differences | | | | (360,063) | | |
| Reversions to the State General Fund - Note 10 | | | | <u>(9,743,465)</u> | | |
| | | | | <u>\$ 34,529,415</u> | | |

Interest Rate Risk: The Department does not have an investment policy that limits investments maturities as a means of managing its exposure to fair value losses arising from increasing interest rates. The New Mexico State Treasurer's Office does have an investment policy that limits investments maturities to five years and less on allowable investments. This policy is means of managing exposure to fair value losses arising from increasing interest rates. This policy is reviewed and approved annually by the New Mexico State Board of Finance.

Credit Risk: The New Mexico State Treasurer's Office pool is not rated.

For additional GASB No. 40 disclosure regarding cash held by the New Mexico State Treasurer's Office, the reader should refer to separate audited financial statements prepared by the New Mexico Treasurer's Office for the fiscal year ended June 30, 2018 which discloses the categories of risk involved.

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NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
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NOTE 3. CASH AND INVESTMENTS (CONTINUED)

Cash in Banks – Ancillary Receivership. The following is a listing of the Department’s Ancillary Receivership cash balances on deposit at a local financial institution. The amounts are reported in the SHARE 11870 trust fund. These balances are grouped by depository financial institutions as of June 30, 2018.

| | |
|----------------------------------------------------|-------------|
| Century Bank of Santa Fe – Demand Deposit Accounts | \$1,994,647 |
|----------------------------------------------------|-------------|

This amount is listed on the Fiduciary Statement of Net Position Held in Trust for Policy Holders and Creditors. There were no reconciling items for these bank accounts. Refer to Note 19 for further information related to the trust fund.

OSI has entered into a custodial agreement with the above financial institution and the New Mexico State Treasurer. According to this agreement, the State Treasurer is responsible for approving all changes in the pledged collateral, monitoring the collateral requirements, and ensuring that all collateral meets the requirements of state law. As of June 30, 2018, the State Treasurer reported that the cash account was adequately collateralized in accordance with state statutes. Please refer to the separately issued financial statements of the State Treasurer’s Office for additional information.

Fiduciary Fund Investments:

Pooled Investments. For the private-purpose trust fund PCF (11850), OSI has entered into an agreement with the State Investment Council pursuant to Section 6-8-1.G, NMSA 1978 to participate in the investment pool. The Pool is not registered with the SEC and is managed by the State Investment Council. The investments are valued at fair market value based on quoted market prices at the valuation date. The reported value of the pooled shares is the same as the fair value of the pooled shares.

The value of the investments maintained in the State Investment Council’s External Pooled Investment Funds is as follows at June 30, 2018:

| | Market Value |
|-------------------------|---------------|
| Core Bond Fund | \$ 25,345,686 |
| Large Cap Index | 4,598,646 |
| Non US Developed Index | 1,935,200 |
| Non US Emerging Markets | 1,404,336 |
| Mid/Small Cap | 1,863,506 |
| | \$ 35,147,374 |

For the private-purpose trust fund for Policy Holders and Creditors (11870), investments are held at a financial institution (custodian) as follows:

| | Market Value |
|---------------------------|----------------|
| US Government Obligations | \$ 448,958,863 |
| Other Governmental Bonds | 97,845,070 |
| Corporate Investments | 7,914,504 |
| Other Investments | 4,505,000 |
| | \$ 559,223,437 |

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2018**

NOTE 3. CASH AND INVESTMENTS (CONTINUED)

Concentration of Credit Risk: OSI places no limit on the amount the OSI may invest in any one issuer. Please see the financial statements of the State Investment Council for a further discussion of the risks of the pooled investments. Their audit report may be obtained by contacting the State Investment Council at 41 Plaza La Prensa #A, Santa Fe, New Mexico 87507.

NOTE 4. DUE FROM AND DUE TO OTHER FUNDS

Due from and due to other funds represent inter-fund receivables and payables arising from interdepartmental transfers primarily due to statutory requirements for transferring funds collected by one fund and expended by another. There were no inter-fund receivables and payables in FY18. These are routine transactions that occur monthly or annually. These amounts are eliminated on the government-wide financial statements. Fiduciary funds are excluded from governmental funds and governmental-wide financial statements. All inter-fund balances are expected to be repaid in the next fiscal year.

NOTE 5. CAPITAL ASSETS

The changes in capital assets for the year are as follows:

| | Beginning Balance <u>6/30/17</u> | Additions | Deletions | Ending Balance <u>6/30/18</u> |
|----------------------------------------------------|----------------------------------------|-------------------|------------------|-------------------------------------|
| Governmental-Type Activities | | | | |
| Computer Equipment | \$ 408,408 | \$ 258,063 | \$ - | \$ 666,471 |
| Furniture and Fixtures | 6,793 | - | - | 6,793 |
| Automotive | <u>474,489</u> | <u>26,441</u> | <u>(138,578)</u> | <u>362,352</u> |
| Total capital assets at historical cost | <u>889,690</u> | <u>284,504</u> | <u>(138,578)</u> | <u>1,035,616</u> |
| Less: Accumulated Depreciation | | | | |
| Computer Equipment | 258,521 | 89,329 | - | 347,850 |
| Furniture and Fixtures | 5,038 | 340 | - | 5,378 |
| Automotive | <u>338,468</u> | <u>31,551</u> | <u>(138,578)</u> | <u>231,441</u> |
| Total accumulated depreciation | <u>602,027</u> | <u>121,220</u> | <u>(138,578)</u> | <u>584,669</u> |
| Governmental Activities Capital Assets, Net | <u>\$ 287,663</u> | <u>\$ 163,284</u> | <u>\$ -</u> | <u>\$ 450,947</u> |

All Capital Assets listed above are being depreciated. The Office of Superintendent of Insurance does not have any Capital Assets that are not being depreciated, such as land.

Depreciation expense for the current year is \$121,220 for the governmental funds.

NOTE 6. PATIENT'S COMPENSATION FUND CLAIMS

The New Mexico Patient's Compensation Fund (PCF) serves a vital role in supporting the overall health of the medical professional liability insurance (MPLI) system in New Mexico. The PCF provides excess coverage that

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NOTE 6. PATIENT’S COMPENSATION FUND CLAIMS (CONTINUED)

stabilizes the operating results of participating insurers and encourages competition which leads to greater availability and affordability of coverage. In New Mexico and other states, a competitive MPLI market tends to attract new physicians leading to greater access to care. The coverage provided by the PCF requires the use of an occurrence coverage form, preferred by healthcare providers, with limits that provide comprehensive coverage to ensure that injured patients receive appropriate compensation for their injuries. As a result, all stakeholders in the New Mexico healthcare system benefit in some way from a healthy PCF.

NMSA 1978 41-5-25(H) requires an independent actuarial study of the PCF not less than once every two years. The review examines several aspects of the PCF including analyses of indicated reserves for unpaid losses, appropriate assessment surcharges for upcoming policy periods, the impact of potential legislative changes and an examination of the competitive landscape for MPLI in New Mexico and surrounding areas.

The actuarial analysis was conducted by a third party on the Patient’s Compensation Fund during FY18. The results of this study are listed on the PCF’s Statement of Net Position for Patient’s Compensation fund claims as long term claims payable. Per the independent actuarial analysis, discounted claims existing at December 31, 2017 total \$91,200,000. This report may be obtained by writing to State of New Mexico Office of Superintendent of Insurance, PO Box 1689, Santa Fe, NM 87504-1689. It should be noted there are significant actuarial assumptions used in estimating potential liabilities, including the rate of return on investment and the number and cost of claims, among others. The differences in any of the assumptions and actual results may significantly change the potential liabilities. All claim liabilities are paid out of the Patient’s Compensation Fund. The next statutorily required actuarial analysis of the PCF will occur in FY20.

The PCF is not accounted for on the full accrual method of accounting (revenue cycle only) as required by GASB No. 34 due to the high volume of insurance policies with varying terms. This departure from GAAP has resulted in a qualified audit opinion for the Aggregate Remaining Fund Information opinion unit.

NOTE 7. SPECIAL APPROPRIATIONS

The following describes the status of special appropriations the Department received.

| <u>Appropriation</u> | <u>Appropriation End Date</u> | <u>Amount Appropriated</u> | <u>Amount Received to Date</u> | <u>Current Year Expenditures</u> | <u>Project to Date Expenditures</u> | <u>Outstanding Encumbrances</u> | <u>Unencumbered Amount Received</u> |
|--------------------------------------------|-----------------------------------|--------------------------------|----------------------------------------|--------------------------------------|---------------------------------------------|-------------------------------------|---------------------------------------------|
| Laws of 2016, Chapter 11, Section 12 | 6/30/2018 | \$ 1,250,000 | \$ 1,250,000 | \$ 228,854 | \$ 1,136,665 | \$ - | \$ 113,335 |

Laws of 2016, Chapter 11, Section 12 extended the appropriation to June 30, 2018 originally established under Laws of 2013, Chapter 227, Section 7, item 13. The purpose of the appropriation is to migrate the insurance system and processes towards a paperless, web-based environment. The appropriation is from the assessments authorized by Section 59A-6-1-1, NMSA 1978 for an insurance division licensing and revenue accounting system. The appropriation was budgeted within the general operating fund 11690. The \$113,335 reverted to the General Fund on June 30, 2018.

**STATE OF NEW MEXICO
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NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2018**

NOTE 8. CHANGES IN COMPENSATED ABSENCES

The changes in short-term liabilities for government type activities are as follows:

| | Balance <u>Beginning</u> | Increases | Decreases | Balances Ending |
|-------------------------------------|-----------------------------|--------------------------|--------------------------|----------------------------|
| Compensated absences | | | | |
| Annual leave | \$ 248,229 | \$ 138,497 | \$ 136,020 | \$ 250,706 |
| Compensatory leave | 35,723 | 19,506 | 34,137 | 21,092 |
| Sick leave | <u>726</u> | <u>3,019</u> | <u>1,169</u> | <u>2,576</u> |
| Total short-term liabilities | <u>\$ 284,678</u> | <u>\$ 161,022</u> | <u>\$ 171,326</u> | <u>\$ 274,374</u> |

NOTE 9. DUE TO OTHER STATE AGENCIES

The following are short-term amounts owed by the Insurance Suspense Fund to other state agencies:

| Due to Other State Agencies | Fund No. | Amount | Due to Agency/Fund | Fund No. | Amount |
|--------------------------------|-------------|-----------------------------|---------------------------------------------------|-------------|-----------------------------|
| Governmental Funds | | | | | |
| Insurance Suspense Fund | 11820 | \$ 3,160,389 | Department of Finance & Administration | 73600 | \$ 3,160,389 |
| Insurance Suspense Fund | 11820 | 30,844,652 | Dept of Finance & Administration - State Gen Fund | 85300 | 30,844,652 |
| Insurance Suspense Fund | 11820 | <u>18,935,727</u> | Public Regulation Commission | 57800 | <u>18,935,727</u> |
| Totals | | <u>\$ 52,940,768</u> | | | <u>\$ 52,940,768</u> |

NOTE 10. REVERSIONS

Unexpended and unencumbered cash balances of certain funds revert to the State General Fund at year-end. For certain funds, cash recoveries during the fiscal year from stale dated warrants and prior year reimbursements are also due to the State General Fund. Amounts due to the State General Fund for the year ending June 30, 2018 were paid in September 2018.

Current year reversions as of June 30, 2018:

| | SHARE System Fund 11810 | SHARE System Fund 11690 | Total |
|--------------------------------------------------------|-------------------------------|-------------------------------|----------------------------|
| General Fund | | | |
| FY18 Reversions | \$ 8,784,879 | \$ 845,251 | \$ 9,630,130 |
| Prior Year Reversions | <u>-</u> | <u>113,335</u> | <u>113,335</u> |
| Total FY18 Reversions to the State General Fund | <u>\$ 8,784,879</u> | <u>\$ 958,586</u> | <u>\$ 9,743,465</u> |

**STATE OF NEW MEXICO
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JUNE 30, 2018**

NOTE 11. TRANSFERS

Inter-agency and interfund transfers as of June 30, 2018 were as follows:

During the fiscal year, the Department transferred funds that were recorded as "Other Financing Sources (Uses)". The purpose of the transfers from the special revenue funds to the general fund were to comply with the allocated operating budget.

A – Intra-Agency (Interfund) Transfers:

| Fund | Transfers | |
|------------------------------------------|---------------------|---------------------|
| | In | Out |
| 11690 Insurance Operating Fund | \$ 8,962,897 | \$ - |
| 11810 Insurance Operations Fund | - | 6,070,900 |
| 11850 Patient Compensation Fund | - | 665,100 |
| 11860 Title Ins Maintenance Assess. Fund | - | 705,397 |
| 11880 Insurance Fraud Fund | - | 1,521,500 |
| Grand Total | \$ 8,962,897 | \$ 8,962,897 |

B – Inter-Agency Transfers:

| Agency / Fund | Transfers | |
|---------------------------------------------|---------------------|---------------------|
| | In | Out |
| Office of Superintendent of Insurance | | |
| 11690 General Operating Fund - Reversion | \$ - | \$ 958,586 |
| 11810 Insurance Operations Fund - Reversion | - | 8,784,879 |
| Department of Finance and Administration | | |
| 85300 Appropriation Account - Reversion | 9,743,465 | - |
| Grand Total | \$ 9,743,465 | \$ 9,743,465 |

NOTE 12. OPERATING LEASE COMMITMENTS

The Department is obligated for the lease of mailing equipment, which is being accounted for as operating lease. Operating leases do not give rise to property rights or lease obligations; therefore, this lease agreement includes a cancellation clause and is contingent upon legislative appropriation.

Future minimum annual payments under the operating lease agreement for the mailing equipment are as follows:

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OFFICE OF SUPERINTENDENT OF INSURANCE
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2018**

NOTE 12. OPERATING LEASE COMMITMENTS (CONTINUED)

| | |
|-------------------------------------|--------------------------|
| <u>Year ended June 30,</u> | |
| 2019 | \$ 202,963 |
| 2020 | 156,394 |
| 2021 | 131,946 |
| 2022 | 128,667 |
| 2023 | 128,843 |
| Subsequent Years | <u>75,232</u> |
| Total Minimum Lease Payments | <u>\$ 824,045</u> |

NOTE 13. RETIREMENT PLANS (STATE PERA)

As required by Government Accounting Standards Board Statement No. 68, *Accounting and Financial Reporting for Pensions*, the State of New Mexico (the State) continues to include the standard for the fiscal year ending June 30, 2018.

The Department, as part of the primary government of the State of New Mexico, is a contributing employer to a cost-sharing multiple employer defined benefit pension plan administered by the Public Employees Retirement Association (PERA). Overall, total pension liability exceeds Plan net position resulting in a net pension liability.

The State has determined the State's share of the net pension liability to be a liability of the State as a whole, rather than any agency or department of the State and will not be reported in the department or agency level financial statements of the State. All required disclosures will be presented in the Comprehensive Annual Financial Report (CAFR) of the State of New Mexico.

Information concerning the net pension liability, pension expense, and pension-related deferred inflows and outflows of resources of the primary government will be contained in the CAFR and will be available, when issued, from the Office of State Controller, Room 166, Bataan Memorial Building, 407 Galisteo Street, Santa Fe, New Mexico, 87501.

Plan Description: Substantially all the Office's full-time employees participate in a public employee retirement system authorized under the Public Employees Retirement Act (Chapter 10, Article 11, NMSA 1978). The Public Employee's Retirement Association (PERA) is the administrator of the plan. The plan provides for retirement benefits, disability benefits, survivor benefits, and cost-of-living adjustments to plan members and beneficiaries. PERA issues a separate, publicly available financial report that includes financial statements and required supplementary information for the plan. That report may be obtained by writing to PERA, PO Box 2123, Santa Fe, NM 87504-2123. That report is also available on PERA's website at www.nmpera.org.

Funding Policy: Plan members are required to contribute 8.92% of their gross salary. The Office is required to contribute 16.59% of the gross covered salary. The contribution requirements of the plan members and the Office are established in State statute under Chapter 10, Article 11, NMSA 1978. The requirements may be amended by act of the Legislature.

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JUNE 30, 2018

NOTE 14. POST-EMPLOYMENT BENEFITS – STATE RETIREE HEALTH CARE

As required by Government Accounting Standards Board Statement No. 75, Accounting and Financial Reporting for Post-employment Benefits Other Than Pensions, the State of New Mexico has implemented this standard for the fiscal year ended June 30, 2018.

The Department, as part of the primary government of the State of New Mexico, is a contributing employer to a cost-sharing multiple-employer defined benefit post-employment health care plan that provides comprehensive group health insurance for persons who have retired from certain public service positions in New Mexico. The other post-employment benefits (OPEB) Plan is administered by the Retiree Health Care Authority of the State of New Mexico. Overall, total OPEB liability exceeds OPEB Plan net position resulting in a net OPEB liability. The State has determined the State's share of the net OPEB liability to be a liability of the State as a whole, rather than any agency or department of the State and the liability will not be reported in the department or agency level financial statements of the State. All required disclosures will be presented in the Comprehensive Annual Financial Report (CAFR) of the State of New Mexico.

Information concerning the net liability, benefit expense, and benefit-related deferred inflows and deferred outflows of resources of the primary government will be contained in the State of New Mexico Comprehensive Annual Financial Report (CAFR) for the year ended June 30, 2018 and will be available, when issued, from the Office of the State Controller, Room 166, Bataan Memorial Building, 407 Galisteo Street, Santa Fe, New Mexico, 87501.

NOTE 15. FUND BALANCE

Government Fund Balances - Restricted and Committed

OSI's fund balances represent: (1) *Restricted Fund Balance*, which include balances that are legally restricted for specific purposes due to constraints that are externally imposed by creditors, grantors, contributors, or laws or regulations of other government or imposed by law through constitutional provisions or enabling legislation; (2) *Committed Fund Balance*, which include balances that can only be used for specific purposes pursuant to constraints imposed by formal action of the Legislative and Executive branches; (3) *Non-Spendable Fund Balance*, which includes amounts that cannot be spent because they are either (a) not in spendable form or (b) legally or contractually required to be maintained intact; (4) *Unassigned Fund Balance*, which includes a portion of fund balance that is residual classification for the general fund. This classification represents fund balance that has not been assigned to other funds and that has not been restricted, committed, or assigned to specific purposes within the general fund. Committed, assigned, or unassigned amounts are considered to have been spent when an expenditure is incurred for purposes for which amount in any of the unrestricted fund balance classification could be used.

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JUNE 30, 2018**

NOTE 15. FUND BALANCE (CONTINUED)

The following is a summary of the Restricted Fund Balance amounts by fund type at June 30, 2018:

Governmental Funds

Major Governmental Funds

| | |
|-----------------------------------|--------------|
| General Operating Fund (11690) | \$ 1,048,713 |
| Insurance Operations Fund (11810) | - |
| Insurance Suspense Fund (11820) | - |

Non-Major Governmental Funds

| | |
|---------------------------------------------|----------------|
| Insurance Licensee Cont. Educ. Fund (11830) | 344,106 |
| Insurance Examinations Fund (11840) | 1,387 |
| Title Ins. Maintenance Assess Fund (11860) | 334,924 |
| Insurance Fraud Fund (11880) | <u>429,551</u> |

\$ 2,158,681

OSI has a portion of fund balance in the amount of \$43,410 that is non-spendable. This amount consists of prepaid expenses.

NOTE 16. GENERAL FUND INVESTMENT POOL RECONCILIATION

As required by Statute 6-10-3 (NMSA 1978), and to optimize state cash management and investment practices, funds of various state agencies are deposited in the State General Fund Investment Pool (SGFIP). This pool is managed by the New Mexico State Treasurer's office (STO). Claims on the SGFIP are reported as financial assets by the various investing in the SGFIP.

As provided for in Chapter 8-6 (NMSA 1978), the State Treasurer shall receive and keep all monies of the state, except when otherwise provided, and shall disburse the public money upon lawful warrants. The State Treasurer's Office (STO) acts as the state's bank. Agency cash receipts are deposited with STO and pooled in a statewide investment fund, when amounts are greater than immediate needs they are placed into short-term investments. When agencies make payments to vendors and employees they are made from this pool and their claims on the pool reduced.

The comprehensive cash reconciliation model, which compares aggregated agency claims on the State General Fund Investment Pool to the associate resources held by the STO, is now in its fourth year. This process has been reviewed multiple times by the IPAs performing audits of the General Fund, the Department of Finance and Administration, and the State of New Mexico's Comprehensive Annual Financial Report. The reviews have deemed the process to be sound and the Department is fully compliant with the requirements of the monthly process.

1. As of June 30, 2018, resources held in the pool were equivalent to the corresponding business unit claims on those resources.
2. All claims as recorded in SHARE shall be honored at face value.

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NOTE 17. ACCOUNTING PRONOUNCEMENTS WITH FUTURE EFFECTIVE DATES

In November 2016, GASB Statement No. 83, *Certain Asset Retirement Obligations* was issued. Effective Date: The requirements of this Statement are effective for reporting periods beginning after June 15, 2018. Earlier application is encouraged. OSI is still evaluating how this pronouncement will affect future financial statements.

In January 2017, GASB Statement No. 84, *Fiduciary Activities* was issued. Effective Date: The requirements of this Statement are effective for reporting periods beginning after December 15, 2018. Earlier application is encouraged. OSI is still evaluating how this pronouncement will affect future financial statements.

In June 2017, GASB Statement No. 87, *Leases* was issued. Effective Date: For reporting periods beginning after December 15, 2019. OSI is still evaluating how this pronouncement will affect future financial statements.

In March 2018, GASB Statement No. 88, *Certain Disclosures Related to Debt, including Direct Borrowings and Direct Placements* was issued. Effective Date: The requirements of this Statement are effective for reporting periods beginning after June 15, 2018. Earlier application is encouraged. OSI is still evaluating how this pronouncement will affect future financial statements.

In June 2018, GASB Statement No. 89, *Accounting for Interest Cost Incurred before the End of a Construction Period* was issued. Effective Date: The requirements of this Statement are effective for reporting periods beginning after December 15, 2019. Earlier application is encouraged. OSI is still evaluating how this pronouncement will affect future financial statements.

In August 2018, GASB Statement No. 90, *Majority Equity Interests—an amendment of GASB Statements No. 14 and 61* was issued. Effective Date: The requirements of this Statement are effective for reporting periods beginning after December 15, 2018. Earlier application is encouraged. OSI is still evaluating how this pronouncement will affect future financial statements.

NOTE 18. RISK MANAGEMENT, LITIGATION AND CONTINGENT LIABILITIES

OSI is exposed to various risks of losses related to torts; theft of, and damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. Section 15-7-2 NMSA 1978 requires the General Services Department, Risk Management Division (RMD) to be responsible for the acquisition and administration of all insurance purchased by the state. Since 1977, various state statutes have been created which allow RMD to insure, self-insure or use a combination of both. Any claims are processed through RMD.

OSI is party to various claims and lawsuits arising in the normal course of business for the Patient's Compensation Fund (PCF) and Ancillary Receiverships. The PCF financial statements include an actuarial estimate of claims existing at December 31, 2017. The FY18 financial statements reflect the adjusted estimated actuarial claims.

Amounts administered through ancillary receivership are paid from funds in custody of the Superintendent pursuant to the Insurance Code. OSI is a party to the Willis Asset Management Receivership litigation and has entered into a settlement agreement whereby the Willis parties will pay the State/OSI out of the proceeds of the sale of various properties. Those sales are in various stages, with at least one approaching consummation.

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NOTE 18. RISK MANAGEMENT, LITIGATION AND CONTINGENT LIABILITIES (CONTINUED)

However, it is not clear how much will be realized from that sale, and OSI is a long way from collecting the final payout. There will be no liability to OSI from this litigation. This litigation does not affect the FY18 financial statements.

NOTE 19. TRUST FUND FOR THE BENEFIT OF POLICY HOLDERS AND CREDITORS

59A-5-18 NMSA 1978 requires insurance companies transacting business in New Mexico to make deposits held in trust for the benefit of all policy holders and creditors. This deposit is the 'general deposit'. 59A-5-19 NMSA 1978 requires insurance companies transacting business in New Mexico to make deposits held in trust for the benefit only of all the policy holders and creditors in this state. This is the 'special deposit'. These general and special deposits, in addition to cash held for ancillary receiverships, are referred to as the "trust fund". The current custodian of the securities contained in the trust fund and of the ancillary receivership cash accounts is Century Bank of Santa Fe.

Deposits eligible for the trust fund include securities outlined in 59A-10-3 NMSA 1978, with further references to 59A-9-6 and 59A-9-8. The required amounts of the deposits are detailed in 59A-5-16. As long as insurers remain solvent OSI is acting in a fiduciary capacity. Insurer's rights during solvency are outlined in 59A-10-7 and include the right to all income generated by their deposits. 59A-41-18 NMSA 1978 governs the conduct of delinquency proceedings against insurers and provides for ancillary receivership.

SHARE fund 11870 has been established for the trust fund. During FY18, the individual transactions for the trust fund were not processed through SHARE.

NOTE 20. RESTATEMENT OF NET POSITION HELD IN TRUST FOR POLICY HOLDERS AND CREDITORS

The June 30, 2017 net position of the Policy Holders and Creditors Fund (a private-purpose trust fund) was restated. OSI originally reported the June 30, 2017 net position balance in the amount of \$1,908,266. However, due to a misinterpretation of generally accepted accounting principles (including GASB Statements No. 34 and No. 54), OSI reported an amount of \$552,385,331 as a liability under the category of "general and special deposits held in trust for policy holders and creditors." The \$552,385,331 should have been reported as net position under the category of "net position held in trust for policy holders and creditors". Accordingly, the June 30, 2017 net position held in trust for policy holders and creditors was restated and net position was increased in the amount of \$552,385,331.

SUPPLEMENTARY INFORMATION

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
NON-MAJOR GOVERNMENTAL FUNDS DESCRIPTIONS
JUNE 30, 2018**

INSURANCE LICENSEE CONTINUING EDUCATION FUND (SHARE Fund 11830): To account for funds received and expended for the purpose of administering the continuing education program pursuant to the provision of Section 59A-12-26 NMSA 1978. The fund is non-reverting.

INSURANCE EXAMINATION FUND (SHARE Fund 11840): To account for funds received from insurance companies and insurance agencies which have been financially audited and examined for financial solvency. Remuneration and expenses of salaried personnel of the Insurance Department serving in the examination shall be paid to the Superintendent pursuant to Section 59A-4-14 NMSA 1978 and all money in excess of \$20k remaining in the fund and unencumbered at fiscal year-end reverts to the general fund.

TITLE INSURANCE MAINTENANCE FUND (SHARE Fund 11860): To account for fees relating to the New Mexico Title Insurance Law pursuant to Sections 59A-30-1 through 59A-30-14 NMSA 1978. The maintenance fee is not greater than 1% of all title insurance premiums written in New Mexico. This rate is set annually and is set to produce the amount of funds necessary to pay all expenses of regulating the business of title insurance, including the compensation and expenses of salaried personnel and consultants employed by the office. This is a non-reverting fund.

INSURANCE FRAUD FUND (SHARE Fund 11880): To account for fees collected under the provisions of the Insurance Fraud Act pursuant to Section 59A-16C-14 NMSA 1978. This fee is not less than \$200 and is not greater than 1/10th of 1% of all premiums on policies written in New Mexico. Direct written premiums for workers compensation are excluded from calculations for this fund. The fraud assessment for title insurers is determined per Section 59A-30-8 NMSA 1978. This fee is set annually to produce the amount of funds estimated as necessary to pay all expenses of carrying out the provisions of the Insurance Fraud Act. This is a continuing and non-reverting fund.

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
COMBINING BALANCE SHEET - NON-MAJOR GOVERNMENTAL FUNDS
JUNE 30, 2018

| | Insurance Licensing Continuing Ed 11830 | Insurance Examination Fund 11840 | Title Insurance Maintenance Fund 11860 | Insurance Fraud Fund 11880 | Total Governmental Funds |
|---------------------------------------------------------------|--------------------------------------------------|-------------------------------------------|-------------------------------------------------|----------------------------------|--------------------------------|
| ASSETS | | | | | |
| State General Fund Investment Pool | \$ 344,106 | \$ 1,387 | \$ 1,066,301 | \$ 429,151 | \$ 1,840,945 |
| Federal Grants Receivable | - | - | - | - | - |
| Due from Other Funds | - | - | - | - | - |
| Other receivables | - | - | 1,223 | 400 | 1,623 |
| Allowance for uncollectible receivables | - | - | - | - | - |
| Prepaid expenses | - | - | - | - | - |
| Total assets | <u>\$ 344,106</u> | <u>\$ 1,387</u> | <u>\$ 1,067,524</u> | <u>\$ 429,551</u> | <u>\$ 1,842,568</u> |
| LIABILITIES | | | | | |
| Voucher payable | \$ - | \$ - | \$ - | \$ - | \$ - |
| Payroll benefits & taxes payable | - | - | - | - | - |
| Accrued wages payable | - | - | - | - | - |
| Due to State General Fund | - | - | - | - | - |
| Due to Other State agencies | - | - | - | - | - |
| Other liabilities and unearned revenues | - | - | - | - | - |
| Stale dated warrants | - | - | - | - | - |
| Total liabilities | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> |
| DEFERRED INFLOWS OF RESOURCES | | | | | |
| Unearned revenues - title insurance fees | - | - | 732,600 | - | 732,600 |
| FUND BALANCES | | | | | |
| Nonspendable | | | | | |
| Inventory | - | - | - | - | - |
| Prepaid expenses | - | - | - | - | - |
| Restricted | | | | | |
| Special purposes | 344,106 | 1,387 | 334,924 | 429,551 | 1,109,968 |
| Total fund balances | <u>344,106</u> | <u>1,387</u> | <u>334,924</u> | <u>429,551</u> | <u>1,109,968</u> |
| Total liabilities, deferred inflows, and fund balances | <u>\$ 344,106</u> | <u>\$ 1,387</u> | <u>\$ 1,067,524</u> | <u>\$ 429,551</u> | <u>\$ 1,842,568</u> |

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
COMBINING STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES
IN FUND BALANCES - NON-MAJOR GOVERNMENTAL FUNDS
FOR THE YEAR ENDED JUNE 30, 2018

| | Insurance Licensing Continuing Ed 11830 | Insurance Examination Fund 11840 | Title Insurance Maintenance Fund 11860 | Insurance Fraud Fund 11880 | Total Governmental Funds |
|---------------------------------------------------------------------------------------|--------------------------------------------------|-------------------------------------------|-------------------------------------------------|----------------------------------|--------------------------------|
| REVENUES | | | | | |
| Insurance tax | \$ - | \$ - | \$ - | \$ 1,592,507 | \$ 1,592,507 |
| Investment earnings | - | - | - | - | - |
| Special Appropriations | - | - | - | - | - |
| Miscellaneous | - | - | 14,680 | - | 14,680 |
| Federal revenue | - | - | - | - | - |
| Other fees | 250,143 | - | 699,400 | - | 949,543 |
| Total revenues | <u>250,143</u> | <u>-</u> | <u>714,080</u> | <u>1,592,507</u> | <u>2,556,730</u> |
| EXPENDITURES | | | | | |
| Current | | | | | |
| Personal services and employee benefits | - | - | - | - | - |
| Contractual services | - | - | - | - | - |
| Other costs | - | - | - | - | - |
| Capital outlay | - | - | - | - | - |
| Total expenditures | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> |
| Excess of revenues over expenditures before other financing sources (uses) | <u>250,143</u> | <u>-</u> | <u>714,080</u> | <u>1,592,507</u> | <u>2,556,730</u> |
| Other Financing Sources (Uses) | | | | | |
| Operating Transfers In - Intra-Agency | - | - | - | - | - |
| Operating Transfers Out - Intra-Agency | - | - | (705,398) | (1,521,500) | (2,226,898) |
| Reversions to State General Fund | - | - | - | - | - |
| Operating Transfers In Inter-Agency | - | - | - | - | - |
| Operating Transfers Out Inter-Agency | - | - | - | - | - |
| Total other financing sources (uses) | <u>-</u> | <u>-</u> | <u>(705,398)</u> | <u>(1,521,500)</u> | <u>(2,226,898)</u> |
| Net changes in fund balances | 250,143 | - | 8,682 | 71,007 | 329,832 |
| Fund Balances - beginning | 93,963 | 1,387 | 326,242 | 358,544 | 780,136 |
| Fund Balances - ending | <u>\$ 344,106</u> | <u>\$ 1,387</u> | <u>\$ 334,924</u> | <u>\$ 429,551</u> | <u>\$ 1,109,968</u> |

OTHER SUPPLEMENTARY INFORMATION

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF JOINT POWERS AGREEMENT
FOR THE YEAR ENDED JUNE 30, 2018**

| <u>Description</u> | <u>Participants</u> | <u>Party Responsible for Operations</u> | <u>Begin-End Dates</u> | <u>Total Estimated Amount of Project</u> |
|----------------------------------------------------------------------------------------------------------------|------------------------------------|---------------------------------------------|------------------------|--------------------------------------------------|
| Appoints SIC as the fiduciary authorized to invest the long-term reserves of the OSI and all investment income | OSI NM State Investment Council | NM State Investment Council | 05/15/18-05/15/22 | \$ - |

| <u>Portion Applicable to the Agency</u> | <u>Amount Agency Contributed in FY18</u> | <u>Agency where Revenue/Expense are Reported</u> | <u>Audit Responsibility</u> | <u>Fiscal Agent</u> |
|---------------------------------------------|----------------------------------------------|----------------------------------------------------------|---------------------------------|---------------------|
| \$ - | \$ - | OSI | N/A | N/A |

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE YEAR ENDED JUNE 30, 2018**

| Federal Grantor / Pass-Through Grantor / Program or Cluster Title | Federal CFDA Number | Pass-Through Entity Identifying Number | Federal Expenditures |
|-----------------------------------------------------------------------------------|---------------------------|-------------------------------------------------|-------------------------|
| Department of Health and Human Services | | | |
| Direct Programs | | | |
| Affordable Care Act (ACA) Grants to States for Health Insurance Premium Review | 93.511 | None | \$ 909,563 |
| Health Insurance Enforcement and Consumer Protections Grant Program | 93.881 | None | <u>446,125</u> |
| Total Department of Health and Human Services | | | <u>1,355,688</u> |
| Total Expenditures of Federal Awards | | | <u>\$ 1,355,688</u> |

*See Notes to Schedule of Expenditures
of Federal Awards.*

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS (CONTINUED)
FOR THE YEAR ENDED JUNE 30, 2018

NOTE 1. BASIS OF PRESENTATION

The accompanying Schedule of Expenditures of Federal Awards (Schedule) includes the federal grant activity of Office of Superintendent of Insurance (OSI) and is presented on the modified accrual basis of accounting. The information in this Schedule is presented in accordance with the requirements of Title 2 Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Therefore, some amounts presented in this schedule may differ from amounts, presented in, or used in the preparation of the financial statements.

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Expenditures reported on the Schedule are reported on the accrual basis of accounting. Such expenditures are recognized following the cost principles contained in the Uniform Guidance wherein certain types of expenditures are not allowable or are limited as to reimbursement.

NOTE 3. SUBRECIPIENTS

The OSI did not provide any federal awards to subrecipients during the fiscal year.

NOTE 4. NON-CASH FEDERAL ASSISTANCE

The OSI did not receive any non-cash federal assistance.

NOTE 5. INDIRECT COST RATE

The OSI has elected not to use the 10% de minimus indirect cost rate allowed under Uniform Guidance.

NOTE 6. MATCHING

Matching costs (OSI's share of certain program cost) are not included in the reported expenditures. The basis of accounting varies by federal program consistent with the underlying regulations pertaining to each program. The amounts reported as federal expenditures were obtained from the federal financial reports for the applicable program and periods. The amounts reported in these reports are prepared from records maintained for each program, which are reconciled with the OSI's financial reporting system.

NOTE 7. INSURANCE

No insurance is carried specifically to cover equipment purchased with federal funds. Any equipment purchased with federal funds has only a nominal value and is covered by the OSI casualty insurance policies.

NOTE 8. LOAN OR LOAN GUARANTEES

There were no loans or loan guarantees outstanding at year-end.

COMPLIANCE SECTION



**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER
FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN
ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***

Mr. John G. Franchini, Superintendent of Insurance
Office of Superintendent of Insurance
Santa Fe, New Mexico and
Mr. Wayne Johnson
New Mexico State Auditor
Santa Fe, New Mexico

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, each major fund, the aggregate remaining fund information, and the budgetary comparisons for the general fund and major special revenue funds of the Office of Superintendent of Insurance (OSI), as of and for the year ended June 30, 2018, and the related notes to the financial statements, which collectively comprise OSI's basic financial statements, and have issued our report thereon dated October 31, 2018. Our report issued unmodified opinions on the governmental activities and each major fund and a Qualified opinion on the aggregate remaining fund information of such financial statements. Specifically, OSI's Patient's Compensation Fund (a private purpose trust fund which is a fiduciary fund component of the aggregate remaining fund information), contains participant surcharges that have been recorded on the cash basis of accounting and not in accordance with GAAP which require revenues in a private purpose trust fund to be recorded under the accrual method of accounting.

Internal Control over Financial Reporting

In connection with our engagement to audit the financial statements of OSI, we considered OSI's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of OSI's internal control. Accordingly, we do not express an opinion on the effectiveness of OSI's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the accompanying Schedule of Findings and Questioned Costs, we identified certain deficiencies in internal control that we consider to be material weaknesses and significant deficiencies.

Mr. John G. Franchini, Superintendent of Insurance
Office of Superintendent of Insurance and
Mr. Wayne Johnson
New Mexico State Auditor

A *deficiency* in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. We consider the deficiencies described in the accompanying Schedule of Findings and Questioned Costs as items FS 2016-012, FS 2016-014, FS 2018-001 and FS 2018-002 to be material weaknesses. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiencies described in the accompanying Schedule of Findings and Questioned Costs as items FS 2016-011 and FS 2017-003 to be significant deficiencies.

Compliance and Other Matters

In connection with our engagement to audit the financial statements of OSI, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, non-compliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our engagement and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of non-compliance or other matters that are required to be reported under *Government Auditing Standards* and which are described in the accompanying Schedule of Findings and Questioned Costs as item FS 2016-013. Additionally, if the scope of our work had been sufficient to enable us to express opinions on the basic financial statements, other instances of non-compliance or other matters may have been identified and reported herein.

OSI's Responses to Findings

OSI's responses to the findings identified in our engagement are described in the accompanying Schedule of Findings and Questioned Costs. OSI's responses were not subjected to the auditing procedures applied in the engagement to audit the financial statements and, accordingly, we express no opinion on them.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the result of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an engagement to perform an audit in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Jaramillo Accounting Group LLC (JAG)
Albuquerque, New Mexico
October 31, 2018



**INDEPENDENT AUDITOR’S REPORT ON COMPLIANCE FOR EACH MAJOR
PROGRAM AND ON INTERNAL CONTROL OVER COMPLIANCE REQUIRED BY
THE UNIFORM GUIDANCE**

Mr. John G. Franchini, Superintendent of Insurance
Office of Superintendent of Insurance
Santa Fe, New Mexico
and Mr. Wayne Johnson
New Mexico State Auditor
Santa Fe, New Mexico

Report on Compliance for Each Major Federal Program

We have audited the Office of Superintendent of Insurance’s (OSI) compliance with the types of compliance requirements described in the *OMB Compliance Supplement* that could have a direct and material effect on OSI’s major federal program for the year ended June 30, 2018. OSI’s major federal program is identified in the summary of auditor’s results section of the accompanying Schedule of Findings and Questioned Costs.

Management’s Responsibility

Management is responsible for compliance with the federal statutes, regulations, and the terms and condition of federal awards applicable to its federal programs.

Auditor’s Responsibility

Our responsibility is to express an opinion on compliance for OSI’s major federal program based on our audit of the types of compliance requirements referred to above. We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirement of Title 2 *U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether non-compliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about OSI’s compliance with those requirements and performing such other procedures as we considered necessary in the circumstances.

We believe that our audit provides a reasonable basis for our opinion on compliance for each major federal program. However, our audit does not provide a legal determination of OSI’s compliance.

Mr. John G. Franchini, Superintendent of Insurance
Office of Superintendent of Insurance and
Mr. Wayne Johnson
New Mexico State Auditor

Opinion on Each Major Federal Program

In our opinion, OSI complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended June 30, 2018

Other Matters

The results of our auditing procedures disclosed instances of non-compliance, which are required to be reported in accordance with the Uniform Guidance and which are described in the accompanying Schedule of Findings and Questioned Costs as items FA 2015-006. Our opinion on each major federal program is not modified with respect to these matters.

OSI's response to the non-compliance finding identified in our audit is described in the accompanying Schedule of Findings and Questioned Costs. OSI's response was not subjected to the auditing procedures applied in the audit of compliance and, accordingly, we express no opinion on the response.

Report on Internal Control over Compliance

Management of OSI, is responsible for establishing and maintaining effective internal control over compliance with the types of compliance requirements referred to above. In connection with our engagement to audit OSI's compliance with the compliance requirements applicable to its major program, we considered OSI's internal control over compliance with the types of requirements that could have a direct and material effect on the major federal program to determine the auditing procedures that are appropriate in the circumstances for the purpose of expressing an opinion on compliance for the major federal program and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of OSI's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, non-compliance with a type of compliance requirement of a federal program on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material non-compliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

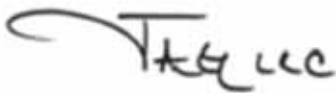
Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may

Mr. John G. Franchini, Superintendent of Insurance
Office of Superintendent of Insurance and
Mr. Wayne Johnson
New Mexico State Auditor

exist that were not identified. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses. However, we identified a deficiency in internal control over compliance, as described in the accompanying Schedule of Findings and Questioned Costs as item FA 2015-006 that we consider to be a significant deficiency.

OSI's response to the internal control over compliance finding identified in our audit is described in the accompanying Schedule of Findings and Questioned Costs. OSI's response was not subjected to the auditing procedures applied in the audit of compliance and, accordingly, we express no opinion on the response.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of Uniform Guidance. Accordingly, this report is not suitable for any other purpose.



Jaramillo Accounting Group LLC (JAG)
Albuquerque, New Mexico
October 31, 2018

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS
JUNE 30, 2018**

FINANCIAL STATEMENT FINDINGS:

| | | |
|----------|---------------------------------------------------|----------------------|
| 2014-001 | CONTROLS OVER PAYROLL | RESOLVED |
| 2014-004 | TRAVEL AND PER DIEM-OTHER TRAVEL | RESOLVED |
| 2015-001 | CONTROLS OVER VEHICLE USAGE | RESOLVED |
| 2015-002 | CHIEF PROCUREMENT OFFICER | RESOLVED |
| 2016-001 | CONTROLS OVER CASH RECEIPTS | RESOLVED |
| 2016-003 | SUSPENSE FUND CODING | RESOLVED |
| 2016-005 | NON-COMPLIANCE WITH THE PROCUREMENT CODE | RESOLVED |
| 2016-006 | ENTITY-WIDE CONTROL DEFICIENCY | RESOLVED |
| 2016-008 | TRUST FUND EXCESS DEPOSITS | RESOLVED |
| 2016-010 | TRUST FUND SECURITIES ELIGIBILITY | RESOLVED |
| 2016-011 | IMPROPERLY COMPLETED CASH RECEIPTS | REVISED AND REPEATED |
| 2016-012 | PATIENT'S COMPENSATION FUND REVENUE DISCREPANCIES | REVISED AND REPEATED |
| 2016-013 | BUDGETARY NON-COMPLIANCE | REVISED AND REPEATED |
| 2016-014 | TRUST FUND TRANSACTIONS OUTSIDE OF SHARE | REVISED AND REPEATED |
| 2016-015 | MANNER OF HOLDING GENERAL AND SPECIAL DEPOSITS | RESOLVED |
| 2016-016 | POLICIES AND PROCEDURES FOR WORK FROM HOME | RESOLVED |
| 2016-017 | SUPERINTENDENT'S SALARY DOCUMENTATION | RESOLVED |
| 2016-018 | ANCILLARY RECEIVERSHIP ASSETS | RESOLVED |
| 2016-021 | ACCOUNTS RECEIVABLE MANAGEMENT | RESOLVED |
| 2017-001 | NON-COMPLIANCE W/ THE VACCINE PURCHASING ACT | RESOLVED |
| 2017-002 | NON-COMPLIANCE W/ THE STATE USE ACT | RESOLVED |
| 2017-003 | TRUST FUND REQUIRED SPECIAL DEPOSITS | REVISED AND REPEATED |
| 2017-004 | VENDORS PD W/O VERIFICATION OF CPM | RESOLVED |
| 2017-005 | PCF INVOICES PAID W/O VERIFICATION OF CPM | RESOLVED |
| 2017-006 | FAILURE TO DISCLOSE ALLEGATIONS OF FRAUD | RESOLVED |
| 2017-007 | NON-COMPLIANCE W/ GOVERNMENTAL CONDUCT ACT | RESOLVED |

FEDERAL AWARD FINDINGS:

| | | |
|-------------|----------------------------------|----------------------|
| FA 2015-003 | INTERNAL CONTROLS OVER REPORTING | RESOLVED |
| FA 2015-006 | TIME AND EFFORT CERTIFICATION | REVISED AND REPEATED |

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
JUNE 30, 2018

SECTION I: SUMMARY OF AUDITOR'S RESULTS

Financial Statements:

| | |
|------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
| 1. Type of auditor's report issued | Unmodified – Governmental Activities Unmodified – each major fund Modified – Aggregate Remaining Fund information |
| 2. Internal Control over Financial Reporting | |
| a. Material Weakness Identified? | Yes |
| b. Significant Deficiencies not considered to be material weakness? | Yes |
| c. Non-compliance Material to the financial statements noted? | Yes |

Federal Programs:

| | |
|----------------------------------------------------------------------------------------------------------|--------------------|
| 1. Internal Control over major programs: | |
| a. Material Weakness Identified? | No |
| b. Significant Deficiencies not considered to be material weakness? | Yes |
| 2. Type of auditor's report issued on compliance for major program | Unmodified |
| 3. Any audit findings disclosed that are required to be reported in accordance with 2 CFR 200.516(a)? | Yes |
| 3. Identification of Major Programs: | |
| <u>Program Name</u> | <u>CFDA Number</u> |
| Affordable Care Act (ACA) Grants to States for Health Insurance Premium Review | 93.511 |
| The threshold for distinguishing Types A & B programs: | \$750,000 |
| 5. The Department was determined to be a low-risk auditee? | No |

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (CONTINUED)
JUNE 30, 2018**

SECTION II: FINANCIAL STATEMENT FINDINGS

SECTION II: FINANCIAL STATEMENT FINDINGS

2016-011 IMPROPERLY COMPLETED CASH RECEIPTS - REVISED AND REPEATED

TYPE OF FINDING: Significant Deficiency

CONDITION

During our revenue test work, we noted certain instances where the payee listed on the check was either OSI and another payee, or where OSI was not listed as a check payee but funds were deposited by OSI anyway.

- A check in the amount of \$40,321.68 made payable to the order of OSI and PRC was deposited on January 19, 2018.
- Two checks made payable simultaneously to OSI and PRC totaling \$2,969,545.72 were deposited into an OSI bank account on January 18, 2018.
- A check made out to "Division of Tax and Revenue" in the amount of \$5,415.30 was deposited into an OSI bank account on January 16, 2018.
- A check was made payable to "Office of Superintendent of Insurance," but was addressed to and from the same entity in New York, NY. This check was for \$591.93 and was deposited on July 14, 2017.

OSI has made progress in implementing corrective action during FY18.

CRITERIA

Section 6-5-2 NMSA 1978 states that "State agencies shall comply with the model accounting practices established by the Financial Control Division and the administrative head of each agency shall ensure that the model accounting practices are followed." Fin-Map 2.3 requires state agencies to perform the following procedures for cash receipts:

1. Count the cash received and verify the check or money order is completed properly;

Per Section 6-5-2(C) NMSA 1978, "State agencies shall implement internal accounting controls designed to prevent accounting errors and violation of state and federal law and rules related to financial matters."

EFFECT

Incorrectly completed cash receipts could be deposited in a bank account not belonging to OSI or improperly deposited into OSI's bank account when it belongs to another agency such as NM Taxation & Revenue Department. These types of receipts may be rejected by OSI's financial institution.

CAUSE

OSI staff are not thoroughly verifying and reviewing that checks or money orders received are properly worded.

RECOMMENDATION

OSI should design and implement controls and monitoring to ensure improperly completed checks are rejected.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (CONTINUED)
JUNE 30, 2018**

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

2016-011 IMPROPERLY COMPLETED CASH RECEIPTS - REVISED AND REPEATED (CONTINUED)

MANAGEMENT RESPONSE

Corrective Action: OSI agrees with this finding and recommendation. The Administrative Services Division (ASD) will continue to review all checks prior to deposit to ensure that the check payee listed on the check is OSI and is not written to another payee or does not include another payee. Any check that is written to the wrong payee or includes another payee other than OSI will be returned and another check requested to be written to OSI only. ASD will also ask Divisions to audit checks received for the proper payee prior to sending to ASD for deposit.” ASD implemented this process in FY18. The program accountant, ASD’s Financial Specialist and ASD’s Cash Receipts Accountant will all be responsible for monitoring all incoming checks to ensure they are written to the correct agency or returned. This process was implemented in FY18; however, at the beginning of the implementation a few checks were missed.

Due Date of Completion: June 30, 2018

Responsible Party: Program Accountant, ASD’s Financial Specialist, and ASD’s Cash Receipts Accountant

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (CONTINUED)
JUNE 30, 2018**

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

2016-012 PATIENT'S COMPENSATION FUND REVENUE CUTOFF - REVISED AND REPEATED

TYPE OF FINDING: Material Weakness

CONDITION

During our test work for the Patient's Compensation Fund (PCF), we tested 40 deposits to determine the surcharge (premium) revenue. The 40 deposits contained a total of 54 member surcharges. We noted the following:

- 26 out of 54 surcharges were for coverage beginning in FY17 but the entire revenue was included in FY18.
- 23 out of 54 surcharges were for coverage ending in FY19 but the entire revenue was recorded as FY18 revenue.

OSI made progress in correcting this finding; however, errors with revenue cutoff still exist. OSI is developing enhancements to the PCF system. The system enhancements are in progress for FY19.

CRITERIA

The PCF is funded by surcharges (premiums) paid by plan participants. These surcharges are based on actuarial principles. The coverage dates are specific and calculations must correctly reflect the coverage beginning and end dates. PCF revenue information is recorded in the financial statements. This information must be reflected in the correct fiscal year. Per GASB No. 34, fiduciary funds, including private-purpose trust funds such as PCF, must be accounting for on the full accrual basis.

EFFECT

OSI is unable to determine if the revenue amounts are accurate, or if amounts reflected on the financial statements are for the correct accounting period. Inaccurate revenue amounts create financial statement misstatements.

CAUSE

The revenues for the PCF are being recorded on a cash basis and not on an accrual basis, as the breakout by policy coverage dates may not be currently feasible.

RECOMMENDATION

OSI should implement a process to report PCF receipts from carriers in the correct accounting period based on the policy coverage dates. This may include implementing new software or using Excel since the volume of policies and terms is so high.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (CONTINUED)
JUNE 30, 2018**

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

2016-012 PATIENT'S COMPENSATION FUND REVENUE CUTOFF - REVISED AND REPEATED (CONTINUED)

MANGEMENT RESPONSE

Corrective Action: OSI is developing enhancements to the PCF database system. OSI has requested that the system have the ability to break out premium dates and amounts received to the correct fiscal year. This would allow OSI to record premiums in the correct fiscal year. The system is scheduled to be completed in January 2019. The PCF Bureau Accountant will attempt to run reports for the first 6 months of FY19 and manually separate the premium receipts by fiscal year to ensure compliance in FY19; however, if this is not possible OSI will ensure compliance in FY20 with the enhancements available in the new system.

Due Date of Completion: June 30, 2019

Responsible Party: PCF Bureau Accountant

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (CONTINUED)
JUNE 30, 2018**

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

2016-013 BUDGETARY NON-COMPLIANCE - REVISED AND REPEATED

TYPE OF FINDING: Does not rise to the level of significant deficiency, Non-Compliance

CONDITION

OSI is required by State statute to collect certain fees to pay for or offset the cost of operations. Our audit included review of fund-related statutes, process interviews with bureaus and a review of the approved budget. The following item was noted:

Agents are required to have continuing education and submit a listing of their continuing education annually to OSI. At the time the agent submits a record to OSI they must also remit a fee equal to \$1.00 per credit hour. OSI collects the fee and updates the IDEAL system with the information provided. The money collected is credited to the continuing education fund. These funds were not being used to administer a continuing education program. This money had not been budgeted for several years and continued to increase. As a result, in FY17, the fund balance of \$1,213,700 from Fund 11830 was transferred to the Department of Finance and Administration.

OSI has made progress in implementing a corrective action during FY18. OSI has submitted a budget request that includes the continuing education program, and is pending budget authorization, beginning in FY20.

CRITERIA

Section 59A-12-26.1 NMSA 1978 requires fees imposed by the provisions of Section 59A-12-26 NMSA 1978 be deposited in the insurance licensee continuing education fund for the purpose of administering the continuing education program.

EFFECT

The fee charged to agents for continuing education is not being used to administer a continuing education program as the legislature intended. Agents may not be taking the most beneficial training.

CAUSE

OSI had not implemented a continuing education program. Continuing education fund monies have not been budgeted because OSI has not implemented a continuing education program.

RECOMMENDATION

We recommend OSI follow all applicable statutes related to budgetary compliance for the continuing education fund. All required amounts should be collected; however, fees that provide no purpose or are not in accordance with the insurance code should be discontinued.

MANAGEMENT RESPONSE

Corrective Action: OSI currently does not have the budget authority to use the monies in the Continuing Education Fund and that is why monies in this fund have not been used. In FY19, the Budget and Finance Bureau worked with the Agent and Producer Licensing Bureau Chief to request budget authority to use these funds in FY20. If OSI obtains budget authority during the FY19 Legislative Session to use these funds in FY20, the Agent and Producer Licensing Bureau Supervisors will begin using these monies for their intended use.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (CONTINUED)
JUNE 30, 2018**

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

2016-013 BUDGETARY NON-COMPLIANCE - REVISED AND REPEATED (CONTINUED)

Due Date of Completion: July 1, 2019

Responsible Party: Agent and Producer Licensing Bureau Supervisors

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (CONTINUED)
JUNE 30, 2018**

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

2016-014 TRUST FUND (SHARE FUND 11870) TRANSACTIONS NOT INCLUDED IN STATEWIDE ACCOUNTING SYSTEM - REVISED AND REPEATED

TYPE OF FINDING: Material Weakness, Non-Compliance

CONDITION

OSI maintains General and Special deposits in trust for policy holders and creditors and also maintains seven ancillary receivership accounts. SHARE fund 11870 has been established for this OSI private-purpose trust fund. We noted the following:

- The deposits, withdrawals, or payments (detailed transactions) in the trust fund or the ancillary accounts are not entered into SHARE.

The corrective action plan described in the FY17 management response to this finding has been partially implemented. Based on the test work performed, it appears that OSI has made improvements toward mitigating the condition of the prior year's finding, by performing monthly reconciliations of the ancillary accounts. Because of the timing of the budget process, beginning in FY19, the accounting for all of the financial transactions related to the trust fund and ancillary accounts is being performed within SHARE.

CRITERIA

2.20.6.8 NMAC prescribes application procedures and conditions of approval of authorization or exception to authority to issue warrants and states "Each and every December 31, a state agency that wishes to issue warrants or exception from the requirement of prior submission of proposed vouchers, purchase orders, or contracts to the division for the following fiscal year (July 1 through June 30) shall apply for authorization or exception by submitting a written request to the secretary of the department explaining in detail the reasons why efficiency or economy will be better achieved by the state agency issuing warrants or waiving the prior submission requirements." The agency is also required to include a report outlining how it complied with various conditions and standards including recording transactions daily in the agency's accounting records and recording transactions timely, completely and accurately in all accounting systems, including subsidiary systems.

EFFECT

SHARE fund 11870 does not contain information regarding the transactions occurring in these accounts.

CAUSE

OSI staff received Office of the State Treasurer authorizations for a state agency to open a deposit account pursuant to 6-1-13 NMSA 1978. OSI staff was unaware of the additional requirements pursuant to 2.20.6.8 NMAC regarding issuing warrants and maintaining their accounting system to record all transactions and timely report all activity in the state's book of record (SHARE).

RECOMMENDATION

OSI should comply with 2.20.6 NMAC. OSI management should ensure all financial transactions related to the trust accounts and the ancillary receivership accounts are properly accounted for within the SHARE system.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (CONTINUED)
JUNE 30, 2018**

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

**2016-014 TRUST FUND (SHARE 11870) TRANSACTIONS NOT INCLUDED IN STATEWIDE ACCOUNTING SYSTEM
- REVISED AND REPEATED (CONTINUED)**

MANAGEMENT RESPONSE

Corrective Action: The Budget and Finance Accountant will continue preparing monthly reconciliations on the Ancillary Accounts and the Company Licensing Supervisor will continue preparing monthly reconciliations on the Trust Holding Account. The Budget and Finance Bureau requested and obtained DFA approval in FY19 to use external bank accounts for the Trust Fund. In FY19, the CFO began entering monthly balances for both the Ancillary Accounts and the holding account in SHARE. This process began in the month of July 2018.

Due Date of Completion: June 30, 2019

Responsible Party: Budget and Finance Accountant

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (CONTINUED)
JUNE 30, 2018**

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

2017-003 TRUST FUND REQUIRED DEPOSITS

TYPE OF FINDING: Significant Deficiency, Non-Compliance

CONDITION

We tested required amounts of deposit for the insurance company's trust accounts which are amounts held in trust for policy holders and creditors. During our testing, we noted two out of 20 accounts tested had deposits that in total were \$73,606.20 less than the amount required by the Superintendent of Insurance.

OSI did not make progress on this finding during FY18.

CRITERIA

Section 59A-10-8 NMSA 1978 states "if for any reason the market value of assets of the insurer held on deposit in this state falls below the amount required under the Insurance Code, the insurer shall promptly deposit other or additional eligible assets sufficient to cure the deficiency. If the insurer fails to cure the deficiency within a reasonable time after receipt of notice thereof from the superintendent, the superintendent shall revoke the insurer's certificate of authority."

EFFECT

OSI may have failed to suspend or revoke an insurers' certificate of authority to transact insurance in New Mexico when required by State statute. Policy holders and creditors may not have sufficient financial protection.

CAUSE

OSI was in the process of implementing internal procedures for following up with insurers to remedy deposits that fall below the required amount. OSI assumed that the Bank had sent follow up emails to the insurer indicating their account was not in compliance. As a result, proper follow up and remedy of the deficiencies in these two accounts was not adequately performed.

RECOMMENDATION

OSI should take the necessary steps to follow up with any and all insurers with less than the required deposit amount to ensure compliance with State statute.

MANAGEMENT RESPONSE

Corrective Action: OSI agrees with the auditor's finding. The internal process to ensure compliance with state statute was implemented in FY18 by the Company Licensing Supervisor. The deficiency in the deposits in question occurred at a time when the changes required by the last financial audit to prevent this kind of occurrence, were being implemented but had not yet fully been established. The deficiencies occurred for a very short period of time. The deficiency was corrected promptly once detected. Management is confident that this was an outlier occurrence and that measures are currently in place to prevent this from occurring in the future.

Due Date of Completion: June 30, 2018

Responsible Party: Company Licensing Supervisor

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (CONTINUED)
JUNE 30, 2018**

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

2018-001 PURCHASE ORDER DATED AFTER INVOICE

TYPE OF FINDING: Material Weakness, Non-Compliance

CONDITION

In one of 40 instances tested, we noted one disbursement in the amount of \$1,399,295.76 in which the invoice was dated prior to the purchase order.

CRITERIA

Per Section 6-5-2(B) of NMSA 1978, "state agencies shall comply with the model accounting practices established by the division, and the administrative head of each state agency shall ensure that the model accounting practices are followed."

Per FIN 4.1 of the Manual of Model Accounting Practices, State agencies must enter the Purchase Order in the SHARE system, approved by the State Purchasing Division, to order goods or services and to support encumbrances for external suppliers.

EFFECT

Internal control over expenditures and the ability of responsible parties to appropriately monitor budgets for which they bear responsibility may be compromised. Not being in compliance with these requirements places OSI at the risk for fraud or misuse of public funds.

CAUSE

OSI personnel have not followed state guidelines or internal procedures in the purchase of items. Policy clearly states that the individual must have an approved purchase order.

RECOMMENDATION

We recommend that all personnel be reminded of, or trained in, state agency policy as it relates to purchasing of goods, services, or construction. All OSI personnel should be reminded that initiation of a purchase order is not sufficient for ordering, that an approved purchase order is required per state guidelines.

MANAGEMENT RESPONSE

Corrective Action: OSI agrees with this finding. The individual who inadvertently requested a purchase order after an invoice was received was notified via email the need to have a purchase order in place prior to procuring goods or services. The Patient Compensation Fund Chief (PCF) Actuary was required to purchase insurance coverage to ensure solvency of the PCF Fund. The insurance coverage is a risk retention coverage for the PCF, which is purchased with monies from Hospitals and Doctors covered by this Fund. In FY19, the CPO notified the current PCF Actuary prior to renewing this policy to ensure a PO was in place prior to the expiration of the current insurance policy; however, DFA and GSD had questions regarding the required procurement process for this transaction. Currently DFA, GSD and OSI are discussing the correct procurement method for this transaction due to uniqueness of the Patient Compensation Fund. In regard to all other purchases, the CPO will notify all staff that an approved purchase order is required prior to the purchase of goods or services.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (CONTINUED)
JUNE 30, 2018**

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

2018-001 PURCHASE ORDER DATED AFTER INVOICE (CONTINUED)

Due Date of Completion: June 30, 2019

Responsible Party: CPO

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (CONTINUED)
JUNE 30, 2018

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

2018-002 RESTATEMENT OF JUNE 30, 2017 FINANCIAL STATEMENTS – INTERNAL CONTROL OVER FINANCIAL CLOSE AND REPORTING

TYPE OF FINDING: Material Weakness

CONDITION

OSI did not implement an effective year-end financial close and reporting process for the year ended June 30, 2017 which resulted in material errors in the June 30, 2017 audited financial statements. The errors in the June 30, 2017 net position were corrected within these June 30, 2018 audited financial statements.

- The June 30, 2017 net position of the Policy Holders and Creditors Fund (a private-purpose trust fund; SHARE Fund 11870) was restated. OSI originally reported the June 30, 2017 net position balance in the amount of \$1,908,266. However, due to a misinterpretation of generally accepted accounting principles (GASB Statements No. 34 and 54), OSI reported an amount of \$552,385,331 as a liability under the category of “general and special deposits held in trust for policy holders and creditors.” The \$552,385,331 should have been reported as net position under the category of “net position held in trust for policy holders and creditors”. Accordingly, the June 30, 2017 net position held in trust for policy holders and creditors was restated and net position was increased in the amount of \$552,385,331.
 - Investments for this fund (\$552,385,331) were incorrectly recorded in SHARE as “Other Receivables” and incorrectly reported as such in the State of NM Comprehensive Annual Financial Report (CAFR)
 - OSI had not properly broken out the investment activity in the financial statements
 - Using the Department’s financials, the CAFR misstated this fund in a similar fashion but additionally, incorrectly recorded the net position (\$552,385,331) as “Other Liabilities” and did not break out the investment activities
- The June 30, 2018 financial statement’s Independent Auditor’s Opinion is Modified (Qualification on the Patient Compensation Fund (“PCF”; a second private-purpose trust fund; SHARE Fund 11850) due to a GAAP Departure. OSI has been accounting for revenue-cycle transactions in the PCF on the cash basis.

CRITERIA

There are several key underlying accounting standards to an organization designing and implementing an effective financial close and reporting process. Auditors are required to identify and communicate internal control weaknesses according to Statement on Auditing Standards (SAS) AU Section 325 Communication of Internal Control Related Matters Identified in an Audit, which includes:

- The auditor cannot be a part of a client’s internal control because becoming part of a client’s internal control impairs auditor independence
- The auditor’s work is independent of the client’s internal control over financial reporting and the auditor cannot be a compensating control for the client; and
- A system of internal control over the financial reporting does not stop at the general ledger; it includes controls over the presentation of the financial statements.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (CONTINUED)
JUNE 30, 2018**

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

2018-002 RESTATEMENT OF JUNE 30, 2017 FINANCIAL STATEMENTS – INTERNAL CONTROL OVER FINANCIAL CLOSE AND REPORTING (CONTINUED)

- Financial reporting is considered a significant process of internal control and should be performed by OSI's staff or under the supervision of OSI's staff.

The auditing standards require the auditor to obtain the auditees' agreement to correct material misstatements in their financial statements before the financial statements are issued. This agreement is fulfilled up front in the engagement letter by getting the auditee to agree to doing this. Additionally, at the end of the audit, the auditee also fulfills this obligation when they sign the audit representation letter.

To achieve this, the auditee must provide the auditor final trial balances that are free of material misstatement, including being on the correct method of accounting. Then, at a minimum, all the correct supporting information for the full accrual statements (accrued compensated absences, any debt, capital asset detail along with the accumulated depreciation and depreciation expense, taxes and other receivables, etc.). The auditee must fully understand how all the adjustments flow through the trial balances and are properly presented in the final product (the financial statements).

EFFECT

OSI's June 30, 2017 financial statements were materially misstated. This also resulted in misstatements in the NM Statewide CAFR.

CAUSE

OSI's management and governance were unaware of the required presentation by GASB No. 34 to present private-purpose trust funds with net position. They were also unaware of the GASB No. 34 requirement that private-purpose trust funds be accounted for on the full accrual basis of accounting.

RECOMMENDATION

OSI's financial close and reporting controls should include but not be limited to:

- Identifying all sources of financial and non-financial data (routine and non-routine events and transactions) that will be needed in order to maintain and systematically adjust OSI's general ledger
- Preparing PBCs in the format of the financial statement requirements
- Providing all modified accrual basis to full accrual journal entries for the fiduciary and government-wide financial statements
- Establishing and implementing procedures and records to initiate, authorize, record, process, correct, transfer to the general ledger, and report in the financial statements OSI's transactions, which includes recording revenue-cycle accruals such as receivables and unearned revenues
- Monitoring the non-audit services provided by the external auditor and reviewing and approving the services provided
- Reviewing in detail the financial statements and related reports and not releasing them to the Office of the State Auditor until completely accurate

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (CONTINUED)
JUNE 30, 2018**

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

2018-002 RESTATEMENT OF JUNE 30, 2017 FINANCIAL STATEMENTS – INTERNAL CONTROL OVER FINANCIAL CLOSE AND REPORTING (CONTINUED)

Regarding the PCF, we recommend tracking all insurance policy amounts and terms in Excel or other software in order to automate the accrual calculations.

MANAGEMENT RESPONSE

Corrective Action: The CFO started at OSI on July 1, 2017 and was tasked with coordinating the FY17 audit with little knowledge of the Agency. The State Auditor's office conducted the FY17 audit for the fourth year in row and prepared the FY17 Financial Statements. The financial statements and the proper presentation are the responsibility of the Agency and the State Auditor's presentation of the Trust Fund's Financial Statement was not questioned by neither OSI nor the State Auditor's Office. The CFO is now in her second year with the Agency and is now more familiar with the agency, their funds, and the required financial statement presentation of the funds. The CFO did prepare all of the journal entries required for both the FY17 and FY18 audit and identified to the FY18 auditors that a FY17 restatement would be necessary based on the auditor's recommended changes. The CFO will continue to prepare all the required journal entries to record transactions properly and will properly prepare the FY19 Financial Statements. The CFO will review the financial statements and identify any issues to the external auditor as identified.

Due Date of Completion: June 30, 2019

Responsible Party: CFO

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (CONTINUED)
JUNE 30, 2018**

SECTION III: FEDERAL AWARD FINDINGS

FA2015-006 (REVISED AND REPEATED) APPROVAL BY SUPERVISOR OF TIME AND EFFORT CERTIFICATIONS

TYPE OF FINDING: Significant Deficiency, Non-Compliance

Federal program information:

Funding Department: Department of Health and Human Services

Title: Affordable Care Act (ACA) Grants to States for Health Insurance Premium Review

CFDA Number: 93.511

Award Year: 2014

CONDITION

During our test work, we noted:

1. OSI did maintain time and effort logs for the fiscal year required to substantiate time and effort for all employees charged to a grant.
2. OSI did not have all employee supervisors sign off on the time and effort, a semiannual certification, to assure time charged to the federal grant matches to actual work performed.

The corrective action plan described in prior fiscal year management responses to this finding has been partially implemented. OSI made progress in ensuring time and effort certifications are completed and maintained in accordance with Federal requirements, and match to expenditure reports. However, time and effort logs may not be accurate as employees' supervisors are not signing off that the time spent matches to what is charged to federal and non-federal awards.

CRITERIA

From 2 CFR 200.431 (4) Salaries and wages used in meeting cost sharing or matching requirements on Federal awards must be supported in the same manner as salaries and wages claimed for reimbursement from Federal awards. Previous rules from OMB A-87 stated, Charges for salaries and wages will be supported by periodic certifications that the employees worked on that program for the period covered by the certification. These certifications will be prepared at least semiannually and will be signed by the employee and a supervisor having first-hand knowledge of the work performed by the employee."

EFFECT

OSI has charged portions of salary expenditures to the federal awards. When supervisors of the employees do not review and sign off that the expenditures are accurate, time for non-federal expenditures could be erroneously charged to the federal grant. Improper federal expenditures increase the risk of non-compliance with laws, regulations, or grant conditions. Improper and unsupported federal expenditures may be disallowed costs.

CAUSE

A new program manager has begun to enforce compliance with required certifications. The review of the time and effort log by direct supervisors of staff charged to the grants is still a missing step, assuring tasks are related to the federal award. OSI staff modified through journal entries, charges to the grants to match the time and effort logs.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (CONTINUED)
JUNE 30, 2018**

SECTION III: FEDERAL AWARD FINDINGS (CONTINUED)

FA2015-006 (REVISED AND REPEATED) APPROVAL BY SUPERVISOR OF TIME AND EFFORT CERTIFICATIONS (CONTINUED)

QUESTIONED COSTS

None

RECOMMENDATION

We recommend OSI continue to prepare, and maintain time and effort logs, and approve and maintain semiannual certification. Grant/program managers and employee supervisors should verify that certifications signed by employees are supported by the tasks performed. Any identified discrepancies should be reviewed and corrected immediately. Documentation supporting the authorized rate of pay should be appropriately maintained. OSI should train employees on the difference between federal and non-federal activities performed and how to accurately complete certifications.

MANAGEMENT RESPONSE

Corrective Action: The Grants Manager created a new T&E certification form for FY18 that certifies time by all funding sources, federal grants and MOU (other State funds). Staff salaries and benefits are also distributed by percentages on all federal and other State funds (MOU) effective 7/1/2017.

The Grants Manager attempted to change all federally funded positions ensuring percentage distribution to all available funding sources, federal and other State funds (MOU).

All grant-funded staff's federal time logs were signed by their respective supervisors as of October 3, 2018. The Director of Life and Health will ensure that all time certifications will be signed by both the employee and their supervisor effective immediately.

Due Date of Completion: June 30, 2019

Responsible Party: Grant Manager

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
EXIT CONFERENCE
JUNE 30, 2018**

An exit conference was held on October 29, 2018. The following individuals were in attendance:

Representing the Office of the Superintendent of Insurance:

Robert Doucette, Deputy Superintendent of Insurance
Vicente Vargas JD, Chief General Counsel
Margaret Caffey Moquin JD, Chief Staff Council
Bersabe Rodriguez, Chief Financial Officer
Andy Romero, ARM, AIC, Director, Compliance Division

Representing Jaramillo Accounting Group LLC (JAG):

Audrey J. Jaramillo, CPA, CFE, Managing Partner
Scott Eliason, CPA, Partner
Shawn Mortensen, CPA, Audit Manager

JAG, the Agency's independent public auditor, assisted OSI in the preparation of the accompanying financial statements. The financial statements; however, are the responsibility of OSI management.